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ONTARIO

# PROCEEDINGS

## of the

## Select Committee of the Ontario Legislature appointed to enquire into matters concerning certain Divisions of the Department of Highways.

MR. A. KELSO ROBERTS, Q.C., CHAIRMAN PRESIDING.

MR. V. J. JOHNSON, SECRETARY.

VOLUME I

Wednesday, April 14th, 1954.

Toronto, Ontario.

R. C. Sturgeon,
Official Reporter,
Parliament Buildings,
Toronto, Ontario.

# P R O C E E D I N G S

of the

SELECT COMMITTEE OF THE ONTARIO LEGISLATURE APPOINTED TO ENQUIRE INTO MATTERS CONCERNING CERTAIN DIVISIONS OF THE DEPARTMENT OF HIGHWAYS.

Mr. A. Kelso Roberts, Q.C., Chairman
Presiding.

Mr. V. J. Johnson, Secretary.

Toronto, Ontario,
Wednesday, April 14, 1954
10.30 o'clock a.m.

PRESENT

Mr. A. Kelso Roberts, Chairman
Hon. Dana Porter, Q.C. (Attorney-General)
Messrs. Mapledoram
Janes
Collings
Beckett, Q.C.
Herbert
Dent
Oliver (Leader of the Opposition)
Wren
Grummett, Q.C.

APPEARANCES

Mr. Harvey Cotnam, F.C.A. (Provincial Auditor)
Mr. G. H. Spence, Deputy Provincial Auditor
Hon. G. H. Doucett, Minister, Dept. of Highways
Mr. J. D. Millar, Deputy Minister,
Dept. of Highways
Mr. L. R. MacTavish, Q.C.
Mr. W. A. Clarke, Acting Chief Engineer,
Dept. of Highways

# P R O C E E D I N G S

of the

SELECT COMMITTEE OF THE ONTARIO LEGISLATURE APPOINTED TO ENQUIRE INTO MATTERS CONCERNING CERTAIN DIVERSIONS OF THE DEPARTMENT OF RECORDS.

Mr. A. Reino Roberts, Q.C., Chairman

presiding;

Mr. W. E. Johnson, Secretary.

Toronto, Ontario,

Wednesday, April 14, 1954

10:30 o'clock a.m.

PRESENT:

Mr. A. Reino Roberts, Chairman

Hon. Dana Porter, Q.C. (Attorney-General)

Messrs. Middleton

Jones

Oostindie

Rochette, Q.C.

Shepard

Dunk

Oliver (Leader of the Opposition)

Wren

Grummett, Q.C.

ALSO PRESENT:

Mr. Harvey Coyne, Q.C. (Provincial Auditor)

Mr. C. R. Rance, Deputy Provincial Auditor

Hon. G. A. Doucette, Minister, Dept. of Highways

Mr. A. D. Hilliar, Deputy Minister,

Dept. of Highways

Mr. M. R. Montavish, Q.C.

Mr. H. C. Clarke, Acting Chief Engineer,

Dept. of Highways

APPEARANCES - (cont'd)

Mr. J. L. Zoller, Comptroller of Finance, Dept. of Highways

Mr. W. J. Fulton, Chief Engineer of Technical Surveys, Dept. of Highways

Mr. Duncan Gordon, of J. D. Woods & Gordon Ltd.

Mr. Peter Wright, Q.C., for Hon. Mr. Winters, Minister, Federal Dept. of Public Works.

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THE CHAIRMAN: Gentlemen, I think practically all the members of the Committee are present. There is one who has not yet arrived, but I understand he will be here shortly.

We are now assembled, and I will occupy the chair. I would suggest the appointment of Mr. Victor J. Johnson to act as Secretary of the meeting. If you want to make that a permanent appointment, that will be in order, or, if you prefer, we can discuss that in a few minutes, but we might have him act as Secretary for the opening meeting.

HON. MR. PORTER: Mr. Johnson is attached to the Department of the Attorney-General.

MR. JANES: Mr. Chairman, I move that Mr. Johnson be appointed as permanent Secretary.

MR. BECKETT, Q.C: I second that motion.

MR. OLIVER: Before you put the motion, Mr. Chairman, may I ask if his appointment is intended

to take the place of the stenographic reporter.

THE CHAIRMAN: No. I think, in order to get everything as we contemplated it, it may be better to have Mr. Johnson act as Secretary this morning, and I will explain the situation a little more fully, before an appointment is made.

---- Mr. V. J. Johnson, Acting Secretary.

THE CHAIRMAN: I will make a few remarks to the Committee in opening.

The Personnel of this Select Committee was named by the Prime Minister in the Legislature on April 5th last and the Committee was appointed

> "to study all phases of the plan of organization and methods of operation in the Fort William division . . . . . and in such other divisions as the Committee deems necessary and to investigate any irregularities or irregular practices and to recommend improvements in organization and administrative practices of the Department of Highways to meet the growing volume of work of the Department".

It has been convened at the earliest possible date, having in mind that the Leader of the Opposition and Mr. Albert Wren, the Liberal Party representatives on this Committee, were both engaged a good deal of last

week at the Convention of the Ontario Liberal Party. I am sure all of us join in congratulating Mr. Farquhar Oliver on his selection last Friday as Leader of the historic and important Ontario Liberal Party.

MR. OLIVER: I do not want to be nasty, but flattery will get you nowhere.

THE CHAIRMAN: Our business today, if the Committee so wishes, will include appointment of administrative and secretarial personnel, arrangements for reporting of proceedings, and hearing statements by Mr. Harvey Cotnam, the Provincial Auditor and Mr. Duncan Gordon of the firm of J.D. Woods and Gordon Limited, Management Consultants. The Honourable George Doucett will also address the Committee.

I have requested that specimens of construction contracts presently in use by the Department of Highways and copies of the rules and regulations and instructions to technical personnel of the Department, be made available for study by members of the Committee. A senior legal officer will, I expect, be available today to explain and instruct us on this phase of the problem.

As I interpret our terms of reference, it will be necessary first of all, to familiarize ourselves with these Departmental practices and to receive

the report of J. D. Woods and Gordon Limited which will be I anticipate, a thorough one and the delivery of which we naturally want to be made as quickly as possible.

Charges of irregularities and improper practices have been made by the Crown against certain employees in the Fort William Division; preliminary hearings before a Magistrate have been had and several are now standing for trial at the next general sessions to be held in Fort William in May. One, charged with a more serious offence, has elected to be tried at the next Assizes. I am informed that normally there would be no Assizes in Fort William until next Autumn but that the Attorney-General hopes to be able to arrange with the Chief Justice of the High Court for a special sitting in June to expedite this trial.

Books and records of certain contractors have been seized by the Crown and are under investigation.

Some, at least, of the evidence which would come before an investigating committee such as this, will come before the Courts in these trials. All of us are believers in fair play and attach great importance to the rights of personal liberty and freedom. Once a man is placed on trial and his personal liberty is involved, he is entitled to a fair trial. None of us will wish to prejudice the fair trial of

any of the individuals concerned. If wrongful practices are shown to have existed, it will be our duty to make recommendations for the prevention of them in the future.

One of the jobs of this Committee is to see that the Department of Highways will employ the very best methods and practices possible and the task of this Committee is not only to make sure that all irregularities indicated by investigations are checked and thoroughly examined into, but also that any lessons learned as a result of our work are translated into methods and procedures for the best possible administration of the Department.

In this work I ask and I am sure will receive the co-operation of all members in getting the facts and studying the material in the most businesslike and expeditious manner possible. None of us expect this committee to turn into a fishing expedition or a witch hunt and none of us should countenance the wasting of time and public funds on useless or unnecessary actions. Heavy duties and responsibilities have been placed upon each of us as members of this Committee, and to discharge them properly will require our thorough unbiased and constant study of the matters and evidence coming before us.

Gentlemen, with these remarks, I would now suggest to you, as I did a moment ago, the appointment of a Secretary, and in connection with that --

MR. OLIVER: Mr. Chairman, before you proceed with that, may I make a few general remarks, following your remarks to the Committee?

Regarding the remarks of the Chairman this morning, one can find very little with which to find fault. There is nothing wrong in what he said. In the main, we will move forward into this matter, and as we do, the gates will open to us, or will be opened for us, and, as far as the Opposition is concerned, I want to make it abundantly clear, so there will be no chance of misapprehension in connection therewith, that we want, and expect, and will demand, a full investigation of every phase of our reference, given to us by the Legislature. And I would say on that point, too, Mr. Chairman, that I am not acquainted at the moment with your programme of sittings, but I feel this Committee should sit as soon as it conveniently can, and sit a number of days at a time, in order that we can move to this task with some speed, because I think speed is demanded of us, as a Committee, because of the nature of the task given to us by the Legislature.

I want to make this point, and I offer it

for the perusal of the Committee, and that is as to the status of the Committee itself. We have had in regard to this matter, a number of investigators; we have the hon. Minister of Highways investigating on behalf of and for his Department -- which is quite proper. We have had the Provincial Auditor investigating for the Legislature, of which he is a servant, and then we have had the J. D. Woods and Gordon Company investigating for the Department of Highways, and for the Government generally. Now we have had created by the Legislature, this Select Committee. I think first of all, we should decide as to the status of this Committee. I think we have, at the moment, this job to do; we have to really come to grips with the question of how many investigating committees we are going to have, and as to whom they will report. It is getting almost to the place now where one group is investigating another group. So far as this Committee is concerned, it is my considered judgment that it is, from now on, the senior investigating body. We have been appointed by the Legislature. We are a creature of the Legislature, and no other investigating body can have the authority -- the full authority -- and the responsibilities, which we have, as the people's representatives.

I think, from now on, all these things which have been investigated by the different investigators, should be continued, after they have made to this Committee, a full and frank report on their investigations conducted thus far. Anyone will agree that the investigations so far conducted will not have been completed, but insofar as they are complete, it should be made known to this Committee, and from now on, these investigators should make their reports to this Legislative Committee. I think that is fundamental and elementary, when a Committee of this character has been set up.

Another matter I want to bring to the attention of the Committee for its consideration is this; these investigations, and the arrests, and the suspensions in the Department of Highways have created an undesirable situation insofar as the future progress in road building in the province is concerned. I cannot see how the Department of Highways is going to spend over $100 million of your taxes and mine, with the disruptions, and suspensions, suspicions and charges, which have been made in connection with the Department.

I am of the opinion, Mr. Chairman, that we should set up in the province, a group of consulting engineers in whom this Committee would have confidence,

and in whom the people of the province generally would have confidence, to carry on the work of the Highways Department while this Committee continues its investigations.

I make that point, because we are investigating what has happened. There is already evidence on file to show there have been irregularities. I am concerned, naturally, about the irregularities, and I am also concerned, Mr. Chairman, about the causes of those irregularities, and about the policy of the Department under which, through which, and by which these irregularities have occurred.

Up until now, we have had nothing to do; we have not examined as to the policies of the Department; we have not noted their shortcomings,nor their failures to meet the present-day needs in highway construction, and it seems to me we would not be justified, as a Committee, in permitting this Department to go on while this turmoil is aroused, and while this Committee is sitting in its investigatorial capacity, and I suggest there should be a group of expert consulting engineers put in charge of highway work in this province, in order that we can proceed with the great highway projects, and, at the same time, obtain and retain public confidence in this highway construction. In the

meantime, our Committee can go on and do the job that is set for them to do.

THE CHAIRMAN: Thank you, Mr. Oliver. I think, gentlemen, that possibly after you hear the remarks I indicated would be made this morning, we may be in a better position to say exactly what the position is at this point, and how we will proceed from there.

If the Committee is willing, I think perhaps we should hear the statements and remarks which are to be made, and then discuss generally, our own procedure, timetables, and so forth.

However, before we do that, I would like to suggest the appointment as legal advisor to the Committee, of Mr. MacTavish, of the Legislative Council, with the thought that he would be available to help in any work where it may be necessary, and not with the idea that he should act as counsel to the Committee, but simply be available in that capacity for any member, or myself, to consult, as to points upon which we may wish to proceed.

MR. OLIVER: Is it your thought that Mr. MacTavish will act at any time, as counsel, to ask questions of witnesses, and so forth.

THE CHAIRMAN: My thought was he would not be in that position, acting as counsel to the Committee.

If it should develop that such a step is desirable, we can deal with it when the question arises.

MR. OLIVER: If you are to press that angle, I would ask the Opposition be furnished with counsel, because the Government, at the moment, is much better equipped than we are, as far as counsel is concerned. If Mr. MacTavish is going to interrogate witnesses --

THE CHAIRMAN: I think when a witness comes before the Committee, we can deal with it, and if it is necessary to set up any counsel system, it may be discussed when the time arrives. In suggesting his appointment now, it is not with the idea of acting as counsel to the Committee as ordinarily understood.

There is a motion before the Committee, for the appointment of Mr. Johnson as permanent Secretary.

MR. OLIVER: I am satisfied, except for this, Mr. Chairman; may I ask if the appointment of Mr. Johnson as Secretary of the Committee is going to preclude the appointment of someone to take shorthand notes.

THE CHAIRMAN: No, I will deal with that in a moment. For the regular proceedings, we should secure the services of someone, such as Mr. Sturgeon.

MR. OLIVER: That will be satisfactory.

THE CHAIRMAN: If the Committee agree, I will

recommend we make arrangements similar to those we have had in the past, for reporting the proceedings.

Dealing with the motion by Mr. Janes, seconded by Mr. Beckett, that Mr. Victor Johnson be appointed as permanent Secretary of the Committee, what is your pleasure?

Motion agreed to unanimously.

THE CHAIRMAN: Now, I would like the matter of Mr. MacTavish's appointment dealt with.

MR. COLLINGS: I so move, Mr. Chairman.

MR. HERBERT: I second the motion.

Motion agreed to unanimously.

---Mr. Victor J. Johnson, appointed permanent Secretary to the Committee.

---Mr. L. R. MacTavish, Q.C., appointed Legal Adviser to the Committee.

THE CHAIRMAN: While it is not necessary to deal with it at the moment, perhaps as we proceed, we might wish to have an engineering advisor appointed to this Committee, but I do not think we are in a position at the moment, to determine that.

MR. JANES: I understand Mr. MacTavish is to be here to advise any of the Committee who may want advice.

THE CHAIRMAN: Yes.

MR. GRUMMETT, Q.C.: As far as the engineering

advisor is concerned; surely we could make use of some member of the staff of the Department of Highways. They must have a number of engineers whom we can consult.

THE CHAIRMAN: I think hon. Mr. Doucett will make it clear as to the availability of any technical staff. I will leave that to him, when he is speaking a little later.. I am only mentioning the engineering matter now, as we may want an independent engineering advisor to this Committee, but I do not think this is the time to discuss it, as it might not even be necessary.

May I say that in regard to stenographic services, they, in a limited way, will be available through Mr. MacTavish's office, in case there is any requirement for services of that sort.

HON. MR..PORTER: Yes, that may be arranged.

THE CHAIRMAN: Mr. Sturgeon is here; is the Committee agreeable we should have these proceedings reported, and make the necessary arrangements with Mr. Sturgeon.

MR. GRUMMETT, Q.C.: Why not put it in the form of a motion, as you have with the others?

THE CHAIRMAN: Will you so move, Mr. Grummett?

MR. GRUMMETT, Q.C.: Yes, Mr. Chairman, I move that Mr. Sturgeon be appointed as the official reporter to this Committee.

MR. OLIVER: I second that motion.

Motion agreed to unanimously.

--- Mr. R. C. Sturgeon appointed official reporter to the Committee.

THE CHAIRMAN: In connection with the proceedings this morning, and the statements which I have mentioned, I feel that the Committee should hear these statements today from the Auditor,and from a representative J. D. Woods and Gordon Limited, but that they be simply statements, and they will not be subject to cross-examination at this moment.

As you know, they are both proceeding with investigations, and it is not our desire in any way, I am sure, to embarrass those investigations or cause any premature statements to be made, but I do feel -- and I hope the Committee will back me up in this -- that it is advisable for us, in commencing our proceedings, to hear from the Auditor at this point, and from a representative of the J. D. Woods and Gordon Limited, management consultants, so we might find out exactly how far they have gone, and what they are contemplating doing.

Hon. Mr. Doucett will make a statement this morning, which I am sure will be welcomed by everybody, as assisting us in getting started with as clear a conception as possible of what lies ahead.

MR. OLIVER: It is understood that while they will make their statements today, they will be available for examination before the Committee at some future date?

THE CHAIRMAN: When their investigations are completed, I would say they will all be available for examination, if necessary.

MR. GRUMMETT, Q.C.: In other words, they will be made available at any time, when the Committee wants to call them back?

MR. OLIVER: I did not like the suggestion that they will not be available when the investigations are completed.

THE CHAIRMAN: They will be available when the Committee wants them.

MR. OLIVER: That is much better.

THE CHAIRMAN: I think we should hear them on that basis this morning, so as not to have any misunderstanding as to how far they should go at this point.

I think perhaps the proper order would be to ask Mr. Cotnam, the Provincial Auditor, to make a statement to the Committee, and I would ask Mr. Harvey Cotnam to please do that.

H A R V E Y  C O T N A M, F.C.A.,

appearing before the Committee , but not being sworn, deposes and says:

THE DEPONENT: Mr. Chairman, I would ask the indulgence of the Committee to permit me to read my remarks, in view of the fact that there are persons on trial in connection with the Highways investigations.

THE CHAIRMAN: I am sure that will be alright.

(page 18 follows)

THE DEPONENT:

I would like to report to the Committee on the steps which have been taken in connection with the investigation of irregularities in the Department of Highways. I feel that it would be useful to review the steps which have been taken from the time when the first irregularities were uncovered up to the present date.

A routine examination of the accounting procedures of the Fort William Division Office of the Department of Highways was undertaken in early September 1953, by the Supervisor of Highways Division Offices, following which it was decided to conduct a complete examination of all phases of the operations of this office by a joint staff from my office and the office of Mr. J. L. Zoller, Financial Comptroller of the Department of Highways.

During the course of this audit, certain transactions were noted which indicated that there had been wrong-doing on the part of some of the more junior employees, and that they had received payments from the Department to which they were not entitled.

These irregularities were investigated and charges were laid against four departmental employees. The cases of these employees came up for preliminary hearing in Fort William, Friday, April 9th, and the employees were committed for trial. On the same date

they appeared before a District Court Judge and elected to be tried without a jury, and June 7, 1954 was set as the trial date.

During the course of this investigation, the auditors questioned how these irregularities could have been carried out without the knowledge of more senior departmental employees. Accordingly I obtained the necessary engineering assistance and went behind the scene. The scope of the enquiry was, therefore, enlarged, and a number of the employees in the Fort William Division were interviewed.

It transpired from these interviews that it had been a widespread practice in this Division to alter the records of the Department in such a manner as to result in payments to contractors for work not actually done under the contract.

As a result of this investigation it was indicated that the Division Engineer of the Fort William Division might be implicated, and on November 26, 1953 he was suspended from duties. As you are all aware, he has since been charged and was committed for trial at a preliminary hearing in Fort William on Thursday, April 8th.

As soon as the extent of the irregularities became apparent it was decided that a special staff should be assembled to carry out a detailed check of the engineering records concerned in the Fort William

Division. This special group was placed under the direction of Mr. Zeller, Comptroller of Finance for the Department of Highways. They commenced work at the main office in Toronto in November, and approximately 30 men have been working since then, re-measuring and re-appraising certain work which of very necessity has been slow, and there is still much to be done.

In December the government appointed Mr. C.L. Dubin, Q.C., as special counsel to take charge of any prosecutions which might arise out of the investigations.

Mr. Dubin, together with myself and certain members of my staff, interviewed the employees of the Fort William and other Divisions, who were felt to be in a position to throw light on the matters under investigation. There have been a large number of changes in staff between the various Divisions during the last few years, and it was found that many of the employees had worked elsewhere. During the course of the interviews it became evident that there might have been irregularities in other Divisions. To give you some idea of the scope of our enquiries I might point out that we have interviewed over one hundred persons, comprising Division Engineers, Construction Engineers, Resident Engineers, Instrument men, Junior employees.

We have, of course, interviewed all senior personnel at Headquarters who have a responsibility

for construction work, and many of the more junior staff. As a result of these interviews information was obtained which indicated that there might have been irregularities in the Huntsville Division, and after further investigation a recommendation was made that the Division Engineer should be suspended until such time as the investigation could be brought to a conclusion.

In January, as a result of information placed before the Prime Minister, hon. Mr. Frost requested J. D. Woods & Gordon Limited, Management Consultants, to undertake an investigation of the organization and administration of the Department of Highways. They were also requested to co-operate with me as might be required.

Very shortly after their appointment, I decided that steps should be taken to examine the records in the other Divisions of the Department of Highways, to ensure that no further records were in the process of being altered. We, therefore, organized three teams comprising a member of the firm of J.D. Woods & Gordon Limited, and a senior member of the survey department of the Department of Highways. These teams visited all the divisions in the Department of Highways, and made a spot check of the records actually being worked on, to ensure that no other records were in the process of being altered. This check satisfied

us that nothing of a similar nature was actually going on at that time in the other Divisions. It was not, of course, a detailed investigation, and dealt only with the current situation, and not with the past.

As soon as it became apparent that I would require assistance of an accounting nature, Messrs. Clarkson, Gordon & Co., Chartered Accountants, were requested to assist me in the investigation phases of the work. Working under my direction, they proceeded to review the larger contracts undertaken by the Department of Highways from 1948 to 1952. This review has taken the form of an examination of all phases of the contracts with a view of locating those which required further investigation. This work has not yet been brought to a conclusion. Work is proceeding with the assistance of outside engineers, so that we may have not only an accounting but an engineering opinion as to whether there is anything wrong, and if so, what steps should be taken.

As our investigation progressed and we became familiar with some of the practises followed by which certain contractors had benefited, it appeared possible that some of the contracting firms employed by the Department of Highways, might have been parties to a conspiracy to defraud the Government. It was therefore decided that it would be necessary to make an examination of their books and records. As soon as the

necessary information could be assembled, search warrants authorizing the seizure of their records were served on six contracting firms by the Provincial Police, and arrangements made for the firm of Clarkson, Gordon & Co., Chartered Accountants, to examine their books and records. This was followed a few weeks later by the serving of search warrants on an additional three contractors. I have not yet received the reports on the results of the examinations. A considerable number of documents were seized, as it was believed that they contained information relating to the matters under investigation. Until this mass of information can be sorted out and studied, it would be impossible and unfair of me to make any comment on the result of our examination of the books and records in the contractors' offices.

The information from all the sources which I have mentioned is being sorted out as quickly as possible in order that it may be submitted to Mr. C. L. Dubin, Q.C., for his opinion as to what, if any, action should be taken.

I expect that when he has had an opportunity to fully study all the information which has been obtained, in the course of the next few weeks it will be possible to bring the investigation to some degree of finality, and it will be apparent what actions are presently contemplated.

I would ask the Committee to exempt me at the present time from giving further details as to the information which has been obtained, as I feel it would prejudice the course of our investigation, and might result in disclosing information which could prejudice the trials which are presently under way. I would hope to be able to give the Committee a much fuller report, when certain events, which are now contemplated, have taken place during the next few weeks.

This brings up another matter of great importance, namely, the matter of the organization and strengthening of the Department of Highways to meet the requirements of the present time, and which in event of recession or the necessity in engaging in a public works program, would have to be extended.

The Department has for a period of some thirty-five years grown up under the highway-improvement system which gave the Department very wide powers. That this was outmoded is evidenced by my reports and the action taken in the special Session of 1952, to repeal many of the provisions of The Highway Improvement Act, including the Statutory authority to spend money without the same being voted. What is intended now, and is being intensively studied by J. D. Woods and Gordon Limited, Management Consultants, is the reorganization of the Department with a view to a general strengthening of

this organization and generally aimed at:

1. Strengthening the fiscal controls.

2. The re-organization of the engineering staff and a complete modernization of methods.

3. Re-vamping the system of tenders, including engineering data and the information upon which the same are made.

4. Greater controls in the internal management of the Department.

5. Introduction of the best and most modern methods of assessing quantities and reclassifications and other matters having to do with the settlement of contracts.

THE CHAIRMAN: Thank you, Mr. Cotnam.

MR. WREN: Mr. Chairman, may I ask one question? Does the Provincial Auditor have any statement as to the top-level policies of the Department at this time, as to the letting of contracts?

THE CHAIRMAN: Hon. Mr. Doucett is here, and I think we had better deal with that after he has spoken. Will the hon. Minister deal with that?

HON. MR. DOUCETT: I will be glad to, Mr. Chairman.

MR. WREN: Than I take it the Auditor has no statement to make on policy -- his own statement?

THE CHAIRMAN: Let us get that clear, Mr. Wren.

MR. WREN: Has the Provincial Auditor any statement at this time as to his own opinion on policies, in regard to the awarding of contracts?

THE CHAIRMAN: If Mr. Cotnam wants to make a statement on that, it will be in order.

THE DEPONENT: Mr. Chairman, I would prefer to answer that question at my next meeting with the Committee. I have many things under investigation at the moment, and I think this would be prejudicial to those investigations.

BY MR. OLIVER:

Q Is it fair to say, Mr. Cotnam, that your investigation thus far has included investigation of matters to which Mr. Wren refers, as to the letting of contracts, payments on same, the manner in which they are awarded, and as to whether the quantities have been increased, not only in the field, but in Toronto? Have you gone into that phase of it?

A Yes sir.

BY MR. WREN:

Q Just one more question: from the report you have read, Mr. Cotnam, I would take it that without any prejudice to anyone, could you tell us whether the books of contractors, which have been seized, concern several Divisions? They are not confined to

one Division?

A The books which have been seized -- the contractors are doing work in several Divisions, and we are concerned with their records.

BY MR. GRUMMETT, Q.C.:

Q They had these units of their costs, working in different Divisions?

A Yes.

THE CHAIRMAN: Thank you, Mr. Cotnam.

---The deponent retired.

THE CHAIRMAN: I think Mr. Duncan Gordon is here, one of the members of J. D. Woods and Gordon Limited, Management Consultants, and perhaps he would now address the Committee, on the work his Firm is doing.

D U N C A N G O R D O N,

of J. D. Woods and Gordon Limited, appearing before the Committee, but not being sworn, deposes and says:

BY THE CHAIRMAN:

Q Will you proceed, Mr. Gordon?

A I have been asked to give a report of the work carried out by J. D. Woods and Gordon Limited, in connection with investigations into the organization and administration of the Department.

We were appointed on January 20th, to make a survey of the organization and administration, and also to assist the Provincial Auditor, Mr. Cotnam, in his investigations into the alleged irregularities in the Department.

The remarks which I am going to make deal only with the survey of the organization and administration.

Before starting, I would like to remind the Committee of the size of the organization we have been called upon to survey. In 1953, the Department spent approximately $150 million, and its revenues were approximately $102 million.

THE CHAIRMAN: Before you proceed further, Mr. Gordon, I will ask you if you will identify this letter of appointment, and it may be filed as an Exhibit.

THE DEPONENT: Yes.

HON. MR. PORTER: I think it was mentioned during the Session, and it probably did appear in the Press.

THE CHAIRMAN: We will file copy of letter dated January 20th, 1954, signed by hon. Mr. Doucett, addressed to W. L. Gordon, Esq., President, J. D. Woods and Gordon Limited, Management Consultants.

MR. OLIVER: I think the letter should be read.

THE CHAIRMAN: Alright; I will read this letter. It says:

"I have decided to engage your firm to assist in the continuance of the investigation into certain irregularities in the Fort William Division of this Department. These irregularities have been disclosed by the Provincial Auditor, Mr. H.A.Cotnam, F.C.A., and his officers and assistants and by Mr. J.L.Zoller, Financial Comptroller of the Department of Highways.

"Without in any way limiting the scope of your investigation and inquiry you are hereby directed as follows:

(a) to make a comprehensive study of all phases of the plan of organization and methods of operation of the Fort William Division of this Department and to make such recommendations as you see fit:

(b) assist the Provincial Auditor in his examination of the irregular practices that are now under investigation.

"I further direct your firm to recommend such improvements in the organization and administrative practices of the Department of

Highways which may be found necessary to meet the growing volume of work being done by this Department throughout the Province of Ontario.

"This letter will be your authority to engage such accounting and engineering assistance as in your judgment, circumstances warrant."

EXHIBIT NO. 1: Letter, hon. Mr.Doucett to W.L.Gordon, President, J.D.Woods & Gordon Limited, re authorization for investigation. dated Jan.20th,1954.

MR. WREN: Mr. Chairman, in that letter, you will note in the last paragraph, it authorizes this Firm to recommend such improvements as they think necessary, but it does not specifically authorize them to investigate any irregularities in any other Division. I would like to get that cleared up.

THE CHAIRMAN: Perhaps Mr. Gordon will explain generally, what they have been doing.

MR. WREN: Could we have any assurance this Firm will assist the Provincial Auditor?

MR. OLIVER: It is quite clear in the letter that their mandate refers only to the Fort William Division, insofar as irregularities are concerned.

THE CHAIRMAN: Suppose we hear Mr. Gordon first.

HON. MR. PORTER: That letter goes beyond that.

MR. WREN: He should say what he has authority to do.

THE DEPONENT: Gentlemen, I was trying to remind you of the size of the Department of Highways, and I mentioned the fact that they have spent $150 million in 1953, and that the revenues of the Department were $102 million in that year.

The Department employs between 6,000 and 7,000 people, depending on the time of the year. Its activities cover the whole province of Ontario, and are carried on through 19 Divisional offices, spread from Ottawa to Kenora. I would say the Department of Highways ranks with the biggest businesses in the province, and due to the peculiar nature of the work they are carrying out, it is spread out much more than most business organizations.

Before going into details as to what we have done in connection with our survey of the Department, it might be worth-while if I told you a little of how we go about a survey of this nature.

Our experience has shown us there are people in nearly every organization who know what the problems of that organization are, and what the solutions to

those problems should be. The trouble is that people in an organization are generally much too busy to look critically at themselves, or to introduce changes which would make their work easier. There is also a second problem, that it is very doubtful if one person should start changes in an organization, because it must be co-ordinated in all its various phases.

Our job is to talk to the responsible people throughout the organization, and discuss with them, their duties and responsibilities, and their problems, and to examine the methods of procedure they are following.

We find in any business organization, the men at the top can generally tell us what the organization procedure should be, but until you get fairly far down, you do not always find out what they actually are.

Our plan is to have discussions with the senior people and have them introduce us to their subordinates, and again to talk to the people farther down the line. Having had these discussions, our task is to sort out all the information we have, and to co-ordinate it into a plan which is workable, and which can be handled by everybody in the Department, to get on with the work.

Our first position in this assignment was to make up our minds where to start, whether we should

start in the Divisions which were apparent sources of the trouble, or whether we should start at the top, at Head Office, and work down through to the Divisions. We decided the right procedure in this connection was to start at the top, and work down, and we, therefore, asked the hon. Minister to introduce us to his key men, and ask them to give us every co-operation. I thought it would be helpful in regard to my further remarks, if you could have a chart in front of you, showing the organization of the Department as it was presented to us when we started. I think the easiest place to get it is in the annual report of the Department of Highways for 1953, and you will find it just inside the front cover. It is a chart of the organization, and I think it would be helpful if we could follow it through.

We started out by having a discussion with Mr. Millar, the Deputy Minister, and thought we should concentrate first on the sections of the Department coming under the Chief Engineer. You will find that on the left-hand side of the chart.

We had discussions with Mr. Clarke, who is shown on the chart as "Assistant Chief Engineer", but who is actually the acting Chief Engineer. He introduced us to people along the top row, Mr. Fulton,

the Inspector of Surveys, Mr. MacLachlan, the Contract Engineer, Mr. Robbins, the Chief Engineer of Maintenance, Mr. Francis, the Chief Engineer of Construction, Mr. Sedgwick, Bridge Engineer and Mr. Richardson, the Chief Property Valuator. I would like to correct that, Mr. Richardson was not there, so we spoke with Mr. Jones, who is now in charge of the place.

There are two other places down below, Mr. Walter, Supervisor of Laboratories, and Mr. Brownridge, who is doing the foundations.

We were introduced to all these people, and then to other people coming under them, and to their subordinates, in turn.

We then moved over to the right side of the chart, and spoke with Mr. MacInnes, the Chief Municipal Engineer.

The Municipal Branch, as you probably know, is responsible for the liaison of counties, townships, and municipalities, and it is that branch which administers grants to those jurisdictions which are authorized under The Highway Improvements Act.

We found, when we reached Mr. MacInnes, that he is actually short-handed, and the organization, as shown on the chart, at Head Office, does not actually exist.

He is assisted by his executive assistant, Mr. Higgins.

From there on, we moved over to Mr. Zoller, who is shown as "Assistant to the Deputy Minister", but actually there has been a change in the organization since this chart was prepared and Mr. Zoller is now Financial Comptroller of the Department, and reports directly to the Minister. Mr. Zoller has some sections dealing with budgets and audits, and, of course, we interviewed the peoOle reporting to him, as well as talking to him.

We then spoke with Mr. Flegg, who has taken Mr. Zoller's position as Assistant to the Deputy Minister, and heads the various sections shown on the chart.

In each case, we interviewed people actually shown on the chart, as well as other sections, and in some cases, the sub-section heads.

In the case of the Motor Vehicles Branch, which comes under Mr. Bickell, the Registrar of Motor Vehicles; we deferred our discussions with him until the latter part of March, partially because wecould not do everything at once, and partially because that part of the Department is at its peak period, through the winter months, with the issuance of licences and

motor vehicle permits.

After we had obtained sufficient background and knowledge of the procedures which are in effect at Head Office, we started our discussions with the Divisional staffs. You will see the Divisions are shown on the left-hand side of the chart, and we have actually visited all 19 Divisions. The chart actually indicates that the names have been changed considerably, but the Divisions are still there.

You may wonder why I say "19 Divisions", when they are numbered from 1 to 20. I do not think the Department of Highways is suspicious, because it is not number 13 which is missing, but it is number 12.

BY THE CHAIRMAN:

Q Is there any significance in that report?

A It was amalgamated with another Division.

BY MR. OLIVER:

Q Is that the only one which is missing?

A Division 39 was a sub-Division which was set up for the construction of the Barrie Highway, but after that construction was completed, that Division was shut up.

In each of the 19 Divisions, we talked with the Division engineer in charge and his principal assistants. In the Divisions, the principal assistants

are the construction engineer, the maintenance engineer, and the chief clerk.

In many cases, we took the opportunity of meeting and discussing with many of the more junior employees, including superintendents, store-room, mechanics, clerks, and patrolmen. We tried to get a cross-section of all the people in the Department. These visits in the Divisions have been carried out during the last six weeks, and give us some opportunity to check how the plans and procedures developed at Head Office were being actually operated in the field.

We also thought it would be advisable for us to visit other jurisdictions, to find out how problems similar to those in the Department of Highways are carried out elsewhere. We went into the organization, policies, and practices in each case. Arrangements were made for us to have discussions with the Commissioner of State Highways in Michigan, the hon. Minister of Public Works in Manitoba -- who is responsible for Highways -- and with the hon. Minister of Highways in Alberta.

In each case, they arranged for us to talk to their senior officials. We found the visits most helpful, and we are planning, before submitting our report, on making further visits.

As a result of all these interviews which were carried out, we have obtained a great deal of information, and we are in the process of trying to digest that information at the moment, and to reach conclusions, and to make recommendations as to what should be done in the future. We have actually just started to write our report, and I expect it will be available by the middle of May.

We propose to include in that report -- to give you some idea of what you may expect -- some background information of the Department, and its development over the last few years, and the extent of its activities. We then propose to discuss the major policies and practices which the Department follows. We propose to comment on those policies and practices, and make recommendations for the future, where we consider such recommendations are necessary. We propose to recommend the organization which we think would be suitable for the Department of Highways, and, in addition to that, to suggest how the re-organization can be carried out and get from the present organization to the proposed one. That, in itself, will be almost a report.

At the present time, I really am just not in a position to tell you what our conclusions or our

recommendations will be. We have not had time, as I have said, to study all the information we have obtained, and to clarify in our minds what we should or should not recommend.

BY MR. OLIVER:

Q Is your examination complete?

A No. We are still definitely at it, and we will get to the completion, but until the final paragraph of the report is written, we will still be going back and getting little bits of information to tie in with the over-all picture.

BY MR. WREN:

Q May I ask one question? When you were introduced to the various chief personnel in the Department's Head Office, who was introduced to you as the Chief Engineer?

A I think Mr. Clarke was introduced to us as the Acting Chief Engineer.

Q There was no Chief Engineer, as such, in the Department, when you were introduced?

A No.

BY MR. OLIVER:

Q Is he still in the capacity of Acting Chief Engineer?

A I do not know the answer to that, Mr. Oliver.

BY MR. WREN:

Q Another thing: in your report, when you have it completed -- will your terms of reference enable you to report the cause and effect, insofar as policy is concerned, which might have gone down the line and caused irregularities? Are your terms of reference that broad?

A I would say we interpreted it that broadly. We could not make recommendations as to what the practice should be for the future --

BY MR. OLIVER:

Q Why?

A -- unless we have outlined to anybody studying the report, what the policies were in the past, and any weaknesses we saw in those policies.

MR. WREN: Mr. Chairman, what would be wrong with this Committee -- Mr. Gordon says, and it is quite understandable, that the report will not be available until mid-May -- what would be wrong with the Committee meeting in camera, and getting this report up to date?

THE CHAIRMAN: I am going to suggest that be deferred until we finish with all the statements today, and then we might discuss it.

MR. OLIVER: That is fair.

THE CHAIRMAN: Is there anybody else on the

Committee who would ask Mr. Gordon any questions? I think he has made a very clear statement of the work they are doing.

BY MR. OLIVER:

Q There is just one question, Mr. Gordon: do you interpret your appointment to be broad enough to include the investigation of irregularities within any other Division, excepting that of Fort William?

A We interpreted our terms of reference to be broad enough to proceed in assisting the Provincial Auditor, to go into any irregularities which he might request us to do, anywhere in the Department of Highways.

Q Have you gone into suggested irregularities in other than the Fort William Division?

A That is a difficult question to answer. It is hard to state the exact Divisional boundaries.

BY MR. WREN:

Q Can we not hear whether you have or have not?

A We are looking into anything we are being asked to, anywhere in the Department of Highways.

BY MR. OLIVER:

Q But you cannot say you have delved into supposed irregularities, other than in the Fort William Division?

A I do not feel it is up to me. We have been

working under the instructions of the Provincial Auditor, and I would ask you not to press me on that point.

MR. OLIVER: We will not get very far, unless we find out.

BY MR. WREN:

Q Did you make any study of possible irregularities in the Huntsville Division?

A I think the only way I can answer that is to say that we have investigated irregularities anywhere they have come to our attention.

Q Have they included any other divisions than Fort William?

A I think that is a question I would prefer not to answer at the present time.

BY THE CHAIRMAN:

Q You know the background, and unless you see some real objection to answering, I do not see why that question should not be answered.

A My problem, Mr. Chairman, is we do not know. I cannot say definitely. Mr. Cotnam has explained that a great many things are under investigation, throughout the Department. We have not brought them to a finality as yet.

BY MR. WREN:

Q If Mr. Cotnam, for example, asked you to

check something in or about the City of Toronto, you would know that had nothing to do with the Fort William Division.

A No, that is not correct, because a great deal of information which had to do with the Division Fort William, has been investigated in Toronto.

If you go into a contractor's office, for instance, and he is working on contracts throughout the province, my answer must be that we have looked at books for all the jobs.

Q If he had a job, Mr. Gordon, for instance for a road from Whitby to Toronto, you would know that was not Fort William.

A If we were asked to make an investigation of a contractor's office, we would look at everything in that office.

BY MR. OLIVER:

Q Let me put it this way, and you can answer or not, as you wish. Mr. Cotnam, in his statement this morning, said,as the investigation proceeded it became apparent that there were irregularities in the Huntsville Division; did you or did you not make an examination as to those irregularities in the Huntsville Division?

A We did.

BY MR. WREN:

Q When you visited these various Divisions,

and Division engineers across the province, did you discuss with them, only their organization and administration, or did you discuss with them, any problems or irregularities?

A As far as J. D. Woods and Gordon is concerned, we have tried all the way through to immediately start our discussions on a constructive note. Everybody with whom you talk regarding this thing, immediately starts thinking about "investigation". The important thing, from Woods and Gordon Limited's point of view is to find out what we should recommend for the future, so we have tried in our conversations to steer everybody's thinking to what is wrong now, which can be corrected for the future.

Q You suggest that what has happened in the past might not be complete, and you are interested more in projection into the future?

A No, I do not think that is right at all. If the procedure was wrong, we want to get it right. If the procedure was right, nothing can go wrong.

Q I think you will agree that procedure could be right, and yet irregularities could develop in it.

A They could.

Q My point is that in your examination of what has happened in the past, do you act as if it were

unnecessary to pay too much attention to the irregularities, but only to the administration?

A We are working very closely with Mr. Cotnam.

Q What I am getting at is this; I am trying to fix in my mind what your actual duties are -- what you set out to do.

BY HON. MR. PORTER:

Q Is it not true that Mr. Cotnam's investigation is independent from yours, up to a point?

A That is right.

Q He is investigating with the assistance of Messrs. Clarkson, Gordon and Dilworth, the whole question of irregularities, and matters which might implicate somebody in wrong-doing? Is that not right?

THE CHAIRMAN: You said "Clarkson, Gordon and Dilworth"; did you not mean J. D. Woods and Gordon?

HON. MR. PORTER: No. Mr. Cotnam is assisted by a firm of auditors, which is a different firm from Woods & Gordon. There may be some overlapping, for all I know, but, nevertheless, they have two different functions.

THE DEPONENT: That is right.

BY HON. MR. PORTER:

Q And the function of your investigation is

primarily to look to the future, and to size up the information you receive, to be able to recommend some sort of plan or proposed scheme for an improvement in the organization; is that right?

A I think that is precisely correct.

MR. WREN: Mr. Attorney-General and Mr. Gordon, would you not say that your examinations take into consideration, largely --

HON.MR. PORTER: He said it did.

MR. WREN: That mismanagement might appear?

THE DEPONENT: I think that is quite correct. We do work very closely with Mr. Cotnam.

BY HON. MR. PORTER:

Q The information which Mr. Cotnam obtains is useful to you in coming to your own conclusions?

A That is right.

BY MR. WREN:

Q And the work will eventually be co-related?

A Yes.

BY MR. GRUMMETT, Q.C.:

Q Do I understand from the question and answer that Mr. Gordon is more or less accenting what should be done in the future, and not paying much attention to what has happened in the past?

HON. MR. PORTER: I think he made it perfectly

clear, that in order to make some sort of general recommendations as to the future, he has to be thoroughly familiar with what may have gone wrong in the past.

MR. GRUMMETT, Q.C.: I understood his duties were to investigate what happened in the past.

HON. MR. PORTER: That is what he said, to investigate what has happened in the past, and recommend something for the future.

MR.GRUMMETT, Q.C.: I suppose the accent in the recommendations for the future would, to a great extent, ignore what has happened in the past.

HON. MR. PORTER: As explained by the Provincial Auditor --

MR. GRUMMETT, Q.C.: No, I think Mr. Gordon's Firm was appointed to do a job, and it was intended to assist Mr. Cotnam.

HON. MR. PORTER: That is what they are doing.

MR. GRUMMETT, Q.C.: But from the line of questions and answers given this morning, it seems to me that Mr. Gordon is merely extending his investigation along a line which will assist in setting up better management of the Highway Department in the future.

HON. MR. PORTER: That is the main purpose.

MR. COLLINGS: That is exactly what we want.

HON. MR. PORTER: I do not know what is wrong

with that.

BY MR. OLIVER:

Q Insofar as what has happened in the past, Mr. Gordon, is it a fair statement to say that you took from Mr. Cotnam, the picture revealed to him as prima facie evidence of what has happened, and on that foundation, you project as to what should be the change in policy in the future, to make sure that what has happened, according to Mr. Cotnam's investigation, will not happen again?

A That is right. I think that is perfectly right.

Q In other words, you did not make an independent investigation of your own insofar as irregularities, and one thing and another, are concerned?

A I think I could qualify this, if we put it this way; there will be two sources of reporting on the Department of Highways. J. D. Woods and Gordon propose to make a report which will deal with what has gone on in he past, and recommend any changes which are needed, and what should be done in the future. As I understand it, Mr. Cotnam is responsible for making a report on the irregularities which have taken place in the past. We are giving Mr. Cotnam every assistance we can in obtaining information for him, in order to enable him to make his report.

BY MR. WREN:

Q Will your report set out in any detail, any irregularities reported to you by Mr. Cotnam, and will your report show in any way how these irregularities could have been prevented if other practices had been followed? I am speaking of the past.

A Our proposal at the moment is that our report will deal with policies and procedures which we consider have not been of the best, and why they have not been. We shall then say what should happen. In other words, if they have a bad procedure which basically can result in things going wrong --

BY MR. GRUMMETT, Q.C.:

Q Will your report set out what has happened?

A Yes.

Q It will?

A Yes.

BY MR. WREN:

Q Not only mighthave happened, but as to policy?

A Yes.

Q HON. MR. PORTER: He has said that a number of times. This is really a joint investigation by Mr. Cotnam, the Provincial Auditor, and Mr. Gordon, to get at the facts of all kinds, whether they might appertain to irregularities or organization or anything

else, and the information Mr. Gordon receives and the information the Provincial Auditor receives will be pooled.

THE DEPONENT: That is right.

BY HON. MR. PORTER:

Q And on the basis of that information, your main job is to use the information with a view to future development?

A Yes.

Q You have all the information he has, and he has all the information you have?

A Yes. It is very important --

Q It was not intended you should duplicate in every detail, the work of the Provincial Auditor?

MR. WREN: The Provincial Auditor is looking at one particular aspect, and the Management Firm is looking at another. What the Liberal group want to know is what was the policy which made a great many of these things possible?

HON. MR. PORTER: That is what Woods and Gordon Limited will tell you in their report.

THE DEPONENT: The report will deal with policy, but it will not recite a string of minor instances, resulting therefrom.

BY THE CHAIRMAN:

Q I take it, Mr. Gordon, that where you think

criticism is due, you will criticize?

A No question about that.

BY MR. COLLINGS:

Q How can you make a recommendation for improvement in the future, if you do not know what has gone by in the past?

MR. WREN: We want them related.

MR. COLLINGS: They will be related.

MR. JANES: He has answered that a dozen times.

MR. OLIVER: He may have answered it a dozen times, but he said he would rely on Mr. Cotnam's investigation concerning what has happened in the past. I do not think that is proper.

HON. MR. PORTER: I do not think he said that.

MR. COLLINGS: I did not take it that way.

THE DEPONENT: If I did say that, I did not mean it. Mr. Cotnam and our firm have been working very closely together. Certain things are done under his instructions by our Firm, and other things are done by his staff, and they report back to Mr. Cotnam.

BY MR. OLIVER:

Q Was it co-ordinated?

A He is fully informed of anything we are doing, and we are informed of what he is doing.

THE CHAIRMAN: As we proceed, if there is anything the Committee wants, it may ask for it.

MR. WREN: There may be things by which the Committee can help the Firms in their investigations.

HON. MR. PORTER: The investigations are continuing, and any information they can get, may be helpful. If there is anything you think would be of assistance, I am sure Mr. Cotnam and J. D. Woods and Gordon Limited would be glad to have it.

BY MR. WREN:

Q Your function is not necessarily the function of the auditor and accountant, but it is one of administration only?

A That is right.

---The deponent retired.

(Page 53 follows)

HONOURABLE GEORGE H. DOUCETT,

Minister, Department of Highways, appearing before the Committee, but not being sworn, deposes and says:

BY THE CHAIRMAN:

Q Will you proceed, Mr. Doucett, please?

A Mr. Chairman and members of the Committee: I first of all want to say that I appreciate the opportunity this morning of coming before you at this opening meeting.

I also want to say at the very outset that the Department of Highways, and the staff of the Department, are ready and willing to give you every bit of co-operation they can. In fact, I know you are going to be very busy, and it might be enlightening if the Committee could take a little "whirl" around our Department, and see what really goes on. There is nothing in there which is not for you to see or to examine at any time.

Another thing, Mr. Chairman, I would like to say is that I am going to endeavour to be available, health permitting, morning, noon and night, when you require me, and I think I can say that for every member of my staff. I certainly do not want to say anything, or make any statement pre-judging any of the people implicated in this matter, but I am most anxious that

there be nothing left undone - and there will be nothing left undone as far as I am concerned - to clear up everything in connection with these matters, which may be before you, or in which the Department of Highways is interested.

Now, Mr. Chairman, in making these remarks there are some things I want to read to you, and I hope you will bear with me. Before doing so, however, I want to say that I want to give you every assistance I possibly can, and I will make a sacrifice of some others things in order to be available any time I am wanted.

This morning I have a package here which looks very formidable, but it is not, although it is very important. It contains:

Instructions for the Engineering Staff

The Highway Traffic Act

Duties of Head Automotive Mechanic and Automotive Mechanic Foreman

Basic Handbook for Equipment Operators

Directions regarding Signs and Buildings

Standard Identification Marks for Material and Supplies

General Specifications for Highway Bridges

Maintenance Manual

Highway Improvement Act

Annual Report, 1953

General Stores Stock Catalogue.

I am hoping to give these matters to the Committee and I have a parcel prepared for each member, and I am sure, if they have time to look over it, they will find many things of interest in it.

I would like to take a few moments, Mr. Chairman, in outlining the procedure with regard to highway construction. This is the procedure which is followed, as near as I can give it.

Grade lines are set by the Surveys Branch prior to the letting of the contract. This grade line receives approval from the Chief Engineer of Construction and is then sent to the Division Engineer who checks the grade line. It is from this grade line, as approved or adjusted at the suggestion of the Division Engineer, that the estimate is prepared in detail with the quantities of each material estimated. The estimate is then forwarded to Head Office for checking by the Chief Engineer's office. The estimated cost of the job is made up by the Division Engineer and also checked by the Chief Engineer's office. The estimated cost of the job by the engineer is never disclosed and is used as a guide at the time when the contract is let.

Tenders are then prepared by the Contract Office and advertisement listing the contracts is placed in the newspapers. A proper period is allowed for

preparation of bids by contractors. Contractors are required to make an investigation in the field and fully acquaint themselves with all local conditions surrounding the contract. Tenders are received at a fixed time by the office designated by the Deputy Minister and they are placed in a locked box until such time as they are opened. The tenders are opened in the presence of the Minister and two or more officials of the Department of Highways. The tenders are checked for errors or omissions. The lowest bidder is notified to produce bond and upon the production of the bond and signing of the contract, the contract is awarded to the low bidder.

Q Mr. Doucett, may I interrupt for a moment? Is the lowest bid always accepted?

A Yes, unless they cannot qualify under the specifications, and may not have the proper equipment.

BY HON. MR. PORTER:

Q Or supply a bond?

A Some of them cannot get bonds.

Every contract in Ontario is awarded to the low bidder. In some cases contracts are not awarded due to irresponsibility or high prices or because the marked cheque accompanying each bid is found to be not satisfactory.

BY MR. OLIVER:

Q What do you mean by "irresponsibility"?

A Mr. Oliver, we have had cheques come in which were not marked, and we would call the bank to see if the cheques were all right, and they would say, "No, it is not," or "There is not sufficient money"; in fact, I do not mind telling this Committee -- and I will be very frank and honest with it -- the situation as I know it.

On one or two occasions in my time as Minister, we received cheques in my office and we telephoned the bank, and found there was no account there at all. In that case, it was thrown out.

Q They may have put the wrong bank name on it?

A Well, perhaps.

The successful bidder is required to supply a 50-percent. collateral or 100-percent. fidelity bond.

Copies of the contract are distributed to the officials concerned.

BY THE CHAIRMAN:

Q May I again interrupt? When you say, "Fifty percent. collateral or one hundred percent. fidelity" --

A Fidelity bond, or cash.

Q If the contract is for $1 million, he would be bonded for one-half million dollars?

A He would furnish us with fifty percent. in cash or bonds, or one hundred percent. in collateral.

BY HON. MR. PORTER:

Q One million dollars in collateral, or half a million dollars in bonds or cash?

A Yes. That has been the practice for many years.

BY THE CHAIRMAN:

Q If a contractor falls down to the extent of $300,000. in his work, you could get $300,000. out of that bond?

A Correct, if that was the amount of it.

BY MR. BECKETT, Q.C.:

Q In other words, the bonding company would have to complete the contract?

A That is right.

Q And in most cases the bonding company goes in and completes it?

A That is true. I do not think I mentioned it, but when a bidder puts in a bid, he puts in a cheque for fifteen percent.

BY HON. MR. PORTER:

Q I was going to ask about that. That refers to fifteen percent. of his tender?

A Yes.

Q Fifteen percent. of the total?

A Of his tender, yes.

BY MR. OLIVER:

Q May I interrupt for a moment at this point? When the fifteen percent. cheque is put in, is that in the same envelope with the tender, or in a separate envelope?

A No, that comes in, in another envelope, Mr. Oliver. I never see these cheques. They go to the Treasury Department for safe keeping.

Q Direct?

A Yes.

BY MR. WREN:

Q Is it opened before the contractor's tender is opened, - by anyone?

A No, it is not.

Q It is put in whose custody?

A It is put in the custody of the Treasury Department -- the Chief Accountant of the Highways Department, and is put in the vault.

Q He does not open that until after the tender is opened and resolved?

A After the bids are all in. They are opened after that date. I never see those.

The contractors are paid by monthly progress payment certificates, certified by the Division Engineer and further certified by Head Office officials. The

Division Engineer has Resident Engineers and Instrumentmen to lay out the work. The Division Engineer's staff prepare the final cross sections and plans from which the final estimate is prepared. The Division Engineer is held responsible for the accuracy of this work. All this information, which includes cross sections, field books, inspectors books, diary, weight tickets and all information pertinent to the contract, are forwarded to the Surveys Branch. A complete check is made of this information and the correct quantities are returned to the Division Engineer for him to prepare the final payment certificate.

BY MR. OLIVER:

Q Are there cases when the quantities are changed in the Head Office in Toronto, as against the quantities recommended or suggested by the Division Engineer?

A It might be by some consultation with the Division, if that happened. But it would be very rare.

BY MR. WREN:

Q One question on these bids: if the tenders - each individual bids - are opened at the same time - or are they. Assuming there are six; why would the cheques not be attached to the bids, and opened at the same time?

A For the simple reason we would get probably

millions of dollars in cheques, and they should be placed away very carefully, and I do not think they should be there anyway. It has been the policy to have two envelopes, one for the cheques so that they can go to the accountant, and the other for the tenders.

Q The cheque is immediately put in the vault, and you cannot open it?

A Oh, no.

BY THE CHAIRMAN:

Q They are accepted cheques?

A Yes.

Q And it is important that they should be protected?

A By all means. May I say, those are details, as I said at the outset. I want to give this Committee everything I possibly can to help it in arriving at its decision. There are men who do that, and our Accountant will be available to come here and give you information in regard to that.

BY MR. COLLINGS:

Q On that one point of the cheques coming in separately; that has been a practice of long standing with the Department?

A Yes. They come in, the cheque in one envelope, and the tender in another.

BY MR. WREN:

Q Are the envelopes identifiable?

A Oh yes, definitely.

Q May I put this question; what would prevent anyone from verifying at the bank that "John Jones" has submitted a marked cheque, and find out the amount?

A I do not quite "get" that.

Q Let us presume I submit a tender, and I submit a marked cheque.

A Yes.

Q For the sake of argument, let us say the tender is for $100,000. What is to prevent an investigation being made at my bank and seeing the amount of the cheque I issued?

A I never heard of a bank doing that. You might do that yourself, but if you endeavoured to verify a cheque drawn by Mr. Oliver, I am sure the bank would not tell you.

BY. MR. HERBERT:

Q The cheque has to be certified, first?

A Yes.

Q Then the money is taken out of the account?

A Yes.

BY MR. COLLINGS:

Q The funds must be there?

A Yes, but I take it Mr. Wren's question was

concerning whether the bank would tell me, and I do not think they would.

THE CHAIRMAN: They would not, under any circumstances.

BY MR. COLLINGS:

Q You would have no occasion to call a bank to find out about a certified cheque.

A I cannot think of any occasion that I know of -- although I have never checked it -- but I do not think any contractors, and I assure you contractors are not dumb, if they thought that was going on they would put in a cheque for a much greater amount than the fifteen percent. It does not say it has to be exactly fifteen percent., but that is the minimum.

BY MR. WREN:

Q Are there that any bids on each job, that the cheques and the bids cannot be filed together, and kept until the day of opening?

A Of course, I cannot see any point in that. We put the cheques away by themselves.

Q You put the bids away, too?

A Yes.

Q They would not be lying around loose?

A No.

MR. HERBERT: If a cheque is marked. the money is deducted from the account.

MR. JANES: The cheque is money.

MR. COLLINGS: It is important to keep it in safe custody.

MR. WREN: So is the bid important.

MR. JANES: The cheque is more important than the bid.

THE DEPONENT: Now, in regard to "General Administration".

Under Part 1, Subsection 2, Chapter 166, R.S.O. 1950, the administration of the Department "shall be continued and shall be presided over by the Minister".

And so on. Would you like me to read this?

MR. BECKETT, Q.C.: It is all in the Statutes, Mr. Chairman.

THE DEPONENT: It shows the citations in the Act. It says:

"Subsection 3 - The Lieutenant-Governor in Council may from time to time appoint a Deputy Minister of Highways who shall perform such duties in the Department as may be assigned to him by the Lieutenant-Governor in Council or by the Minister."

"Subsection 5 - The Lieutenant-Governor in Council may appoint a secretary of the Department and such engineers, surveyors and other officers, clerks and servants of the Department as may be deemed necessary,"

The remaining sections of Part I of the Highways Improvement Act cover the manner in which monies shall be appropriated by the Legislature and payments made for the expenditures of the Department.

"Part II - Subsections 11 to 33 deal with the County Road systems, the manner in which County Road Committees shall be established, the manner in which a County road system shall be laid out and amended, the manner in which subsidy shall be paid to the County Treasurer and other matters dealing with the County roads are outlined.

"Part III of the Act deals with Suburban roads in Sections 34 to 42, outlining the manner in which this type of County road, toward which the cities and separated towns make a contribution, is administered.

"Part IV of the Act, Sections 43-51, deals in a similar manner with Township roads and the payment of subsidy for construction and maintenance.

"Part V, Section 52, deals with roads in territory without municipal organization where the Department subsidizes construction and maintenance under the Statute Labour Act.

"Part VI, Sections 53-55, deal with Development roads whereby the Department constructs and improves roads for municipalities whose financial condition does not permit this being done at the expense of the local taxpayer.

"Part VII, Sections 56 to 63, outlines the procedure in payment of subsidy on roads in cities, towns and villages as introduced in 1947.

"Part VIII, Sections 64 to 94, deals with the manner in which the Highways Department administers the King's Highways in co-operation with the municipalities through which they pass.

"Part IX, Sections 95 to 105, are provisions applicable to all highways such as signs, gas pumps, sidewalks on highways, special agreements with Commissions, etc.

Now, Mr. Chairman, in regard to Municipal Roads:

"As provided in Parts II, III, IV, V, VI, and VII of the Highway Improvement Act a subsidy is payable by the Department to all municipalities, including Statute Labour Boards, Improvement Districts, etc., for the construction and maintenance of highways. A special Branch of the Department headed by the Chief Engineer of Municipal Roads

"advises and assists municipalities in their road work, checks the expenditures made and recommends payment of the subsidy applicable. Assistance commencing at a minimum of fifty percent applies to all rural roads, whether County, Township or Suburban. A subsidy of eighty percent on bridges is payable to all Rural municipalities.

"A subsidy of fifty percent is payable to all urban municipalities which are part of the County organization in Southern Ontario and those incorporated towns located in Northern Ontario which are in a similar position. A subsidy of thirty-three and one-third percent is paid to all cities and separated towns.

"This Branch of the Department has become increasingly important through the years until it is administering under the current Budget for 1954-55 fiscal year subsidy payments estimated at $33,000,000."

I would now like to say a few words about "Personnel."

All employees engaged under provision of Subsection 5, Part I of the Highways Improvement Act are employed under the provisions of the Public Service Act and as Casual staff members required from time to time

for part-time work. The Highways Department, being basically a construction organization, has a large Casual staff and the Personnel Officer has, as a result, become a very responsible official who not only supervises the engaging of suitable staff members but keeps the records of their employment, sick leave credits, etc.

In excess of 3,600 employees have been working full time with the Department in the heavy construction programme of the last nine years, some 5,000 additional employees have been on part-time employment and it is estimated that approximately 30,000 employees working for contractors on highway construction have been employed indirectly by the Department.

In regard to the Construction Branch of the King's Highways:

Personnel of the Head Office is composed of the Chief Engineer of Construction, Assistant Chief Engineer of Construction and three Assistant Engineers.

BY MR. OLIVER:

Q Is Mr. Clarke the Chief Engineer?

A I named Mr. Clarke as Chief Engineer, but the Order-in-Council has not gone through, pending the recommendations and the reorganization.

BY MR. WREN:

Q Is Mr. Nelson still a member of the staff?

A No. He resigned, as I mentioned in the House,

and is no longer an employee.

BY MR. OLIVER:

Q His resignation was accepted?

A His resignation was definitely accepted.

Q When?

A Last Summer, or Fall; in fact, about September. I might say to this Committee that Mr. Nelson resigned about the 23rd of August, but his acknowledgment only went out in September.

This Branch supervises and carries out all construction in the Province, including structures. It consults and advises with the Surveys and Soils Branches on the different standards to be used in all road construction.

Prior to the contracts being let, the Construction Branch approves of all estimates of quantities and approximate costs, which are forwarded from the divisions. After the contracts have been let, the Construction Branch carries out the necessary duties in Head Office and as much time as possible is devoted to field inspection, supervising and giving advice when and where required.

One of the important phases of the duties of this Branch, is to revise and amend all specifications and keep up to date with modern practices.

It is the responsibility of this Branch to recommend for payment all claims, force accounts, etc.

They direct, through the Construction Branch of each division, the organization of the men in the field, so that the work is carried out in a uniform manner and in accordance with the contract specifications.

In regard to the Bridge Construction Personnel, it is composed of a Chief Bridge Engineer, Assistant Chief Bridge Engineer and a corps of Designers, who work under these two men.

The Bridge Department is subdivided so that there is a supervisor over every six or seven men. This Department is entirely responsible for the designing of all structures in the Province and has to do with approving of the design of structures on the Municipal Roads also.

When called upon, they also carry out certain inspection duties in the field but primarily their work is devoted purely to design, the actual construction being carried out according to plan, by the Construction Branch.

The specifications covering design are the responsibility of the Chief Bridge Engineer, also any revisions of the specifications necessary.

They usually work from the Field Survey plans which are submitted under the Surveys Branch and design their bridges according to the ground survey which has been submitted.

The Bridge Department compiles all estimates and approximate costs for the calling of Tenders for this work and also for the material required.

BY MR. WREN:

Q Mr. Doucett, on that point: Does the Department hire or engage independent engineering firms for much of the bridge work?

A Not very much. I think we are doing a little at the present time. We try to get somebody, but it is very difficult.

Q What percentage would you say that independent firms have done over the past 5 years?

A It would be very, very little. I would have to ask our engineers, regarding that.

In regard to maintenance: The Chief Engineer of Maintenance, who reports to the Chief Engineer of the Department, is responsible for the following:

1. Winter Maintenance.
2. Summer Maintenance.
3. Maintenance Contracts except Resurfacing.
4. Signing of highways.
5. Park maintenance.
6. Accident prevention programs within the Department.

7. Day labour construction.
8. Traffic lights and warning signals.
9. Street lighting.
10. Investigation of complaints of all descriptions.
11. Investigation of irregularities as they apply to maintenance.
12. Ferries.
13. Public Safety.
14. Supervise preparation of various manuals.
15. Department building (old and new).
16. Drainage awards.
17. Sign and building permits.
18. Encroachment permits.
19. All Department equipment.
20. Recommend purchase of equipment.
21. Other duties as may be assigned by the Chief Engineer.

The Chief Engineer of Maintenance has three direct Assistants whose special duties are in addition to general supervision:

1. Assistant Chief Engineer of Maintenance - Budget and Staff

2. Assistant Engineer - Contract Estimates.

3. Assistant Engineer - Day Labour Construction Mulch

Purchasing Office is headed by purchasing agent who reports to the Chief Engineer. Staff 8-10.

Duties:

To supervise purchase of all materials and equipment used in Highway construction. (Note: The Department supplies to the Contractors - asphalt, cement, steel, tile, corrugated iron pipe, aggregates, calcium chloride, salt, catch basins, paints, etc.)

Supervise marking of all Department owned materials and stores.

Supervises Central Stores (Staff 6-8).

Supervises Stock of Materials throughout the Province.

Receives quotations and interviews vendors.

The Equipment Branch is under the supervision of the Superintendent of Equipment and reports to the Chief Engineer of Maintenance.

Responsible for recommending purchase of equipment.

Supervises through four district supervisors the maintenance of all equipment throughout the eighteen divisions. Arranges for transfer of equipment as required.

Supervise Equipment Instructors.

Supervise Department safety program.

Maintain a record of all equipment.

Supervises a system to ensure full use of equipment.

Supervises the building of experimental equipment, e.g. Sanders and salters.

Miscellaneous Permits Branch - under Supervisor of Signs and Buildings.

1. Supervise the regulations in connection with the positioning of buildings and structures within 150 feet of the limits of King's Highways; Secondary Roads and others, the cost and maintenance of which is the responsibility of the Department of Highways.

2. To supervise the regulations respecting signs; sign boards; notices or advertising devices upon or within one-quarter of a mile from the King's Highways; Secondary Roads and assumed Highways in Towns; Villages and "built-up areas".

The Miscellaneous Branch under an Assistant Engineer reports directly to the Chief Engineer of Maintenance or his assistants.

Supervises:

1. Construction and maintenance of Department buildings.
2. Zone Painting.
3. Bridge site examination.
4. Magnetic nail puller.
5. Forestry operations.
6. Traffic lights, Street lighting.
7. Paint shops.

Now, for your information, Mr. Chairman and gentlemen - I do not know whether you are interested, but it will only take me a moment - the 18 Divisions in the Province of Ontario are located at what we think are very strategic points.

THE CHAIRMAN: Nineteen.

THE DEPONENT: Eighteen. I think Mr. Gordon was going further, for some purpose.

MR. OLIVER: This is just a description of the various officers and it might be filed with the Committee.

MR. BECKETT, Q.C.: It might be filed, Mr. Chairman.

MR. OLIVER: There are no arguments against it.

HON. MR. PORTER: It is information which will be very useful.

MR. GRUMMETT, Q.C.: I think it should be in the report, so we can all refer to it.

HON. MR. PORTER: It can be put on the record, I suppose.

THE CHAIRMAN: I think the hon. Minister is coming to some important branches, and I think it should go in the record.

HON. MR. PORTER: I think it is better to take this slowly. After all, some people do read Hansard; I never do.

MR. GRUMMETT, Q.C.: It should be in the record of Hansard, so we may refer to it.

THE DEPONENT: There are 18 Divisions in the Province in the following locations:-

Chatham,
London,
Stratford,
Hamilton,
Owen Sound,
Toronto,
Port Hope,
Kingston
Ottawa
Bancroft
Huntsville
North Bay
New Liskeard
Cochrane
Sudbury
Blind River
Fort William
Kenora

Each Division is headed by the Division Engineer, an Assistant Engineer of Construction, an Assistant Engineer of Maintenance, an Office Staff to carry on all clerical work, a Garage with necessary mechanics who look after all equipment used on the Division, a Paint Shop which under the Maintenance Engineer directs the erection of signs. In addition to the above, there is other personnel such as Miscellaneous Permits Inspector, and the necessary Field Engineers who carry on both maintenance and construction.

Each Division is a separate and complete entity in itself, and carries on all work in connection with the construction and maintenance in their respective Divisions.

The average mileage of roads to be looked after is approximately 500.

The Division Engineer is responsible for the certification of all monies spent, Contract Payment Certificates, and so forth.

BY THE CHAIRMAN:

Q Just on that point, Mr. Minister. That is an important matter in practice. Will you read that again, so we may have the responsibilities clear?

THE DEPONENT:

"The Division Engineer is responsible for the certification of all monies spent, Contract Payment Certificates, and so forth. The Division Engineer is directed from the Chief Engineer's Office on the different phases of his work --"

In other words, if there is a contract going on in his Division, say it is in Cochrane - when the estimates come in, the Division Engineer may certify to that payment.

BY MR. MAPLEDORAM:

Q Progressively?

A Yes.

BY MR. BECKETT, Q.C.:

Q How often?

A On these contracts, every month.

BY MR. WREN:

Q Who checks the estimates?

A As I explained in my formal report, they come to Head Office and are checked here.

Q Who is the final authority to make the payment? It is not the Division Engineer's signature alone which counts.

A It comes down here, and is checked here. It says: "The Division Engineer is responsible for the certification of all monies spent, Contract Payment Certificates, and so forth."

BY THE CHAIRMAN:

Q On this question of the certification by the Division Engineer; I think it is important that the members of the Committee understand this procedure fully. Would you just explain. The Committee will have the forms in front of them later in the day, I understand.

A Yes, they should be prepared by this afternoon. I thought it important the Committee understand the chain of authority before payments are finally made.

Q Yes, I think it is important the Committee should have that information.

A To complete that, I have here an exact contract, which I was going to file with you, and which shows each step.

Q There will be somebody here who will go over that with us?

A Some of the engineers will go into that in great detail, I am sure.

The Division Engineer is directed from the Chief Engineer's Office on the different phases of his work and through the Chief Engineer's Branch Heads. When called upon he submits estimated quantities and approximate costs of all construction and maintenance work. He supervises all construction and maintenance according to the regulations and specifications set out by the Department, and is advised from time to time on any and all matters from Head Office Personnel. He is responsible for the maintenance and safe condition of the roads at all times of the year, and in general he is the man who the Department depends upon to carry out the work in accordance with engineering practices set forth by the Department.

BY MR. GRUMMETT, Q.C.:

Q Before you go on, Mr. Minister; you mentioned that each engineer had approximately 500 miles of roads?

A Yes.

Q That includes Municipal Roads?

A No, that is the King's Highways. If you take 18 and multiply it by 500, it will not make the 10,000. It is a little more than 500.

Q Some engineers would have quite a heavy mileage of Municipal Roads?

A Some of them have 200 or 300 miles. I think in each Division, the answer might be they might have a couple of hundred miles of the Municipal Roads.

I would like to file a typical copy of the tender form. I am sorry I have not sufficient copies for the Committee. It will take a little time to prepare them, but we can get them. This gives the information to the bidder.

BY THE CHAIRMAN:

Q I would like to have them distributed, so they will be in front of the Committee. Will you be able to take a little time after luncheon?

A If you wish, yes.

Q The Leader of the Opposition (Mr. Oliver) mentioned he is prepared to go through and finish this in one sitting, or come back this afternoon.

MR. OLIVER: Unfortunately, I made a rather firm commitment in my own riding, and I really have to go home.

THE DEPONENT: You should not miss that for anything.

THE CHAIRMAN: I do not want to shorten anything up unduly.

THE DEPONENT: It would only take a few minutes for me to finish.

HON. MR. PORTER: Then, we might as well complete it now.

THE DEPONENT: I have here a short statement in regard to Soils, Testing and Research Laboratory.

This Branch is headed up by a Chief Soils Engineer with an Assistant Soils Engineer, Research Engineer and Testing Engineer in Head Office.

This Branch advises on the foundation of our road system, as to what materials may or may not be used under our pavements. It directs and supervises all inspection work, concrete and bituminous pavements and the testing of all materials used in the construction of roads and bridges. The responsibility for the success or failure of a pavement rests heavily upon this Branch.

Under the direction of this Branch, also, is the Research Laboratory in which different problems are delved into and better methods sought.

In addition to all the laboratory work that has to be done in connection with soils and material testing, field supervision is carried out to see that the proper materials are being used, in accordance with the specifications covering same. This Branch is integrated with the Construction and Surveys Branches, so that constant consultation is made on standards of roads to be built.

It is a highly technical Branch with skilled technicians employed.

In regard to the Gasoline Tax Branch:

The Department of Highways has been responsible for the collection of gasoline tax ever since the first levy was made in 1925. The work is under the direction of the Chief Inspector Gasoline Tax. There are two units in this Branch, - the revenue-collecting branch, and the gasoline tax refund branch.

Gasoline Tax Revenue:

Under the Gasoline Tax Act, the Minister has power to appoint vendors under agreement for the collection of the tax. These comprise the refineries, importers, and so forth. There are approximately 65 vendors responsible for the collection of the tax, making their reports monthly and forwarding their cheques to the Department covering tax collected. They are paid 1/10th of 1% commission for their work in connection with the collection of the tax.

In addition to the Vendors mentioned above, tax is payable on fuel oil used in Diesel motor equipment operating on the highways. In this instance, it is necessary for the users of such fuel to report the amount used monthly with their remittance of the tax.

Gasoline Tax Refunds:

Under the Act, the Minister has authority to refund the tax paid on gasoline to those persons using gasoline for other purposes than propelling motor vehicles on the highways. The purchaser must complete an application form for the remittance of this tax, supported by invoices from the gasoline dealer showing that the tax has been paid. Applications must be submitted within six months of date of payment of the invoice: otherwise, refund will not be allowed. A staff of auditors is continually employed checking the accounts of gasoline and fuel oil vendors, and all those making application for refund.

The Gasoline Handling Act is also administered by the Chief Inspector Gasoline Tax. This Act provides for the licensing of all retail and wholesale outlets, dealers and so forth, and was devised to control the vendors of gasoline, and to be used in conjunction with the Gasoline Tax Act.

For the fiscal year ending March 31, 1953, gross gasoline tax amounted to over $91,400,000.00. Refunds paid out amounted to $13,800,000.00 - net tax, $77,600,000.00.

Office of the Chief Accountant:

The Chief Accountant is in charge of all accounting in the Department of Highways; pays all accounts that have been certified and approved by Division Engineers or Branch Heads; checks all payrolls from Division Offices; prepares all Head Office payrolls; keeps his books in balance with the Provincial Auditor's; accounts for all revenue collected by the Department. The revenue is reported to him from the various revenue-collecting branches. The Chief Accountant is responsible for all municipal auditing for municipal roads expenditure; also for the accounting in the Division Offices. He is in charge of all accounts receivable covering sales of material, property, and so forth, by the Department; the listing of all invoices, paylists, on vouchers for presentation to the Provincial Treasurer for payment.

Motor Vehicles Branch:

The Registrar of Motor Vehicles is responsible for the administration of the Highway Traffic Act, the Public Vehicles Act and the Public Commercial Vehicles Act; is responsible for the issuing of all licenses for cars, trucks, and so forth; supervises the issuing of licenses throughout the Province by the various agencies; collects the revenue from the sale of these licenses

throughout the Province and deposits it with the Provincial Treasurer.

Financial Responsibility Division:

Receives reports of convictions registered for offences involving the use of motor vehicles; responsible for the suspension of motor vehicles permits and drivers' licenses pending the filing of proof of financial responsibility, and generally the administration of the financial responsibility provisions of the Highway Traffic Act, including those relating to the Unsatisfied Judgment Fund legislation.

Accident and Statistical Division:

Receives reports of accidents in which motor vehicles are involved; compiles factual data relating to accident experience and causes; prepares reports and materials designed to curtail the frequency of accidents; maintains records of accident repeaters, drivers having various forms of physical handicap; conducts re-examination of drivers in specified groups, including those of advanced age and those having unfavourable records.

Public Vehicle Division:

Responsible for administration of The Public Vehicles and the Public Commercial Vehicles Acts and supervision of the operation of persons licensed as Public

Vehicle (motor bus) and Public Commercial Vehicle (freight transport) operators.

The Registrar of Motor Vehicles is responsible for the Unsatisfied Judgment Fund. All judgments given to be paid out of this fund are vouchered and forwarded to the Treasurer for payment.

PROPERTY BRANCH

With the assistance of an Ontario Hydro Property Branch Official, the Property Branch of this Department was re-organized in 1953. There is now a Chief Property Valuator and an Assistant Chief Property Valuator. The Province is divided into districts in charge of a senior valuator, who, in turn, is in charge of other junior valuators. Requests for the purchase of property are made by the Engineering Branch in writing to the Chief Property Valuator giving details of the property to be purchased. The owners of the property are called on by the buyers and efforts made to negotiate a price. When an option has been obtained, this is forwarded to the Main Office of the Property Branch in Toronto, where Recommendation for Approval form is prepared. All purchases under $300.00 are completed on the authority of the Chief Property Valuator; from $300.00 to $1,000.00 on the approval of the Deputy Minister; and of $1,000.00 and over on the approval of the Deputy Minister and the Minister

When these have been approved, the Chief Property Valuator is authorized to complete the deal, which is handled through his legal advisers. The vendor is then notified that the option has been approved and that the purchase will be completed.

On occasion, it is necessary to purchase more property than is required for highway needs. The management of this additional property is in the hands of the Property Management Branch under the Chief Property Valuator. This property is then either sold or rented or leased. No property is sold unless it has first been recommended for sale by the Engineering Branch and by the Deputy Minister. The Minister then approves the sale and the Chief Property Valuator proceeds to advertise it in the local papers and on the property. Tenders are received by the Chief Accountant accompanied by marked cheque for 10% of the bid price. Property Management Branch is also responsible for the collection of rents; the preparation of leases, and so forth. In the event that negotiations cannot be completed with the property owner, it is necessary to prepare information in order that these disputed purchases may be settled by the Municipal Board. This is done by the Chief Property Valuator. The Property Management Branch also settles all disputes and claims arising out of the construction

of highways by adjacent property owners; or any damages to crops and so forth, caused by our engineering parties.

FINANCIAL COMPTROLLER'S OFFICE

Responsible for the allotting of the appropriations voted by the Legislature. Prepares the Annual Budget of the Department from information received from the Division Engineers and Branch Heads. On the recommendation of the Chief Engineer, and the approval of the Deputy Minister, allots money to the Division Office for the carrying out of general Division expenditures; allots money for each contract let by the Department. Keeps a record of expenditure of money allotted. In charge of the Internal Audit of the Department, including Engineering audit of field parties.

As I was saying a moment ago, I have this (indicating) which I am going to leave with the Committee, if you wish, and I will have a complete copy of this prepared. There is a great deal of work attached to it, but we will get it ready for each member of the Committee.

On this there is "information for bidders, special information to bidders, weighing of materials, supplementary information to bidders, rolling and reshaping, and scarifying.

Stock piling, and top soil.

Classification of excavated material.

Granular borrow.

Specifications for pipe sub-drains.

Existing conduits.

Specifications for pipe sewer construction.

Specifications for manholes, catch basins, leaching basins and inlets.

Specifications for pipe culverts.

Specifications for wire rights-of-way and fence erection.

I can come back this afternoon, and read the whole thing, but I think the Committee can do it better than I.

This (indicating) is what the estimate is prepared on, and we in the Department, of course, like you, have heard about certain things. We call this the "D-4". It is the estimate prepared in the field by the Division, and this information, as I said in my formal statement, is not made available to contractors, nor to any person.

This (indicating) is a definite contract showing the names of each contractor who bids, the prices which he bids, and the unit prices of each and every one of them as they come in.

THE DEPONENT: The contract is 52-47, and it is finished. It is an old one.

This (indicating) is also another contract, and is finalized. In this, you will find all tenders and correspondence, progress reports of the Division Engineers, the payments as made, and so on, carried through progressively from the start to the finish. I hope the Committee will preserve these, because they are documents of the office.

THE CHAIRMAN: I suggest they be kept in the custody of the Secretary. At some stage, some member of the Committee may want to look at them. The Secretary's office is just across the hall.

MR. JOHNSON (Secretary): Room 328.

THE DEPONENT: Due to my being out of town, I did not know you were holding this Committee meeting, and I was not able to prepare this exactly, but we will file those two contracts this morning. They may vary in some respects, but, nevertheless, they are exact contracts, the bids are here, the names of each and every man who bid, and the Department set-up, starting from the time it was considered, until the time it was finalized.

There is one thing I would like to say to you, if I may, and it is very important. I have taken

up quite a bit of time. I have my Chief Surveyor and Planner here, and I would like him to give this Committee an explanation of the methods by which he carries out his surveys. He can do that much better than I, and he can also answer the questions the members of the Committee may want to ask. I am sure his statement will be short, and probably he can finish in time for you to go to lunch.

THE CHAIRMAN: There is a certain amount of explanation which I think the members would desire. We would rather spend more than just a few minutes trying to get those explanations.

THE DEPONENT: He has it written, and will give you a copy, and the record may be read. It dovetails very closely with the explanation I have endeavoured to give. The laying of the plans, and the preparations for highway building are very important things.

BY MR. WREN:

Q What percentage of highway construction work is done by day labour?

A The only work which is done by day labour is a great deal of municipal work, as I have stated in the House. The balance of the day labour is very small. They have done some work with mulch, because we have had no grader. The percentage would be very, very

small, of the over-all picture.

Q I would like to see it.

A I would be very happy to get that, and file it with the Chairman, for your information. In fact, the Maintenance Engineer will be available at any time you want to question him.

BY MR. OLIVER:

Q What kind of certificates for payment, Mr. Minister, does the Division Engineer send down to the Toronto Office? I take it that requests for payment are sent down here?

A That is right.

Q And it is gone over in the Toronto Office, and a signature attached thereto?

A Yes.

Q And it is then sent back to the Division?

A Yes. It goes through certain machinery. I think it comes down here and is gone over in the Chief Engineer's office, checked over in the Survey Branch for prices, given to the Chief Accountant's office, and then passed on to the Chief Engineer for his signature, and that of the Deputy Minister.

---The deponent retired.

THE CHAIRMAN: I think it would be of value to the Committee to take a bit of time going over the procedures indicated here.

I would like to file this. This is the tender form, and shows how contracts are awarded.

Having heard these statements this morning, and heard concerning the progress of the examination and investigations, if the Committee feels that its next meeting, after we adjourn today, should be set at a time when we could receive the two main reports, from Mr. Cotnam, and J. D. Woods and Gordon Limited, which would be, I understand, about the middle of May.

I think it has been demonstrated this morning they are getting together a great deal of information which could only be obtained from them when they have completed their reports. But that does not limit the information by any means, and if there is anything else we think we should have, we have the power to obtain it, either by direct evidence or by documents. It will not limit our position, by fixing a time.

MR. WREN: You think the activities of the Committee will be limited until the reports are available?

HON. MR. PORTER: Unless there is something else we can usefully be doing in the meantime. It would

seem to me it would be a waste of time to duplicate the investigations which are already going on. If we have before us, these two reports showing us what has been found in the course of these investigations, we have something very definite into which to put our teeth, and will know whether further investigation should be made directly by this Committee or in any other way.

It is rather difficult for me to visualize just what line of inquiry can usefully be carried out between now and then which will further matters effectively at all.

MR. OLIVER: It is easy to see there can be an overlapping. I do not like the delay from now to the middle of May.

THE CHAIRMAN: Mr. Gordon is still here. May I ask him if he can guarantee us a deadline by the middle of May, so we can set a date for our meeting, shall we say on the 16th of May?

MR. GORDON: It is terribly hard to guarantee a day, but we certainly anticipate and hope having the Wood,Gordon report finished by the middle of May. We are working day and night on it, and will continue to work on that basis. I think it will be ready.

THE CHAIRMAN: I am quite prepared to set a date

for the Committee's meeting, and the gentlemen will have to follow that to the extent of their ability. Shall we make it the 16th of May?

MR. WREN: I think there is a great deal of information we can get in the meantime, which would not necessarily conflict with the work. A number of these officials will require some time.

THE CHAIRMAN: I notice that the 16th of May is a Sunday. Shall we fix the 17th?

MR. OLIVER: We will want to study what the hon. Minister said this morning. We will want to go into that. I doubt if it would conflict with what might be done before the Woods, Gordon report and the report by Mr. Cotnam.

HON. MR. PORTER: By having a report before us which outlines the organization of the Department, and fully discloses any shortages in it, we are in a much better position to call the proper officials to clear up any question, rather than calling them now, and going through every man in the Department and questioning him as to what he does and how he does it.

Probably much of that work can be eliminated if we see the report, and find out what the Committee can do. I do not think you will gain anything by "plugging" away over the next three weeks and asking

a lot of questions of officials which might be already answered in the reports.

MR. GRUMMETT, Q.C.: On top of that, Mr. Chairman, after we have seen the reports, we can pick out what officials we want to question, and the reports will give us an indication of what questions we may want to ask.

HON. MR. PORTER: That is right. It might be narrowed down to certain types of questions.

MR. GRUMMETT, Q.C.: Yes, I think receiving the report will be very important.

MR. BECKETT, Q.C.: It is much better than doing it piecemeal, if we have the report in front of us.

THE CHAIRMAN: If the Committee is agreed, so that we may have a date set, shall we now set Monday, the 17th of May, at the same hour and the same place, and if by any chance these reports come in earlier, we can meet earlier. We might set a time, and I hope everyone will do his best to be here, so we can go on with our business at that time, without any further delay.

(Concurred in).

THE CHAIRMAN: As regards proceeding along technical lines, if Mr. Oliver does not object to our

going on this afternoon, we will not take up any matters which may lead to arguments.

MR. OLIVER: There will be no arguments as far as the Department is concerned.

HON. MR. PORTER: We will undertake not to introduce any controversial matter.

THE CHAIRMAN: If that is agreed, I suggest we adjourn for luncheon, and meet at 2:30. Mr. Doucett, I would like to have the officers of your Department here to instruct us and help us understand this material. I think we can complete it this afternoon.

HON. MR. DOUCETT: I will be very happy to do that, Mr. Chairman.

MR. GRUMMETT, Q.C.: I presume we can safely leave our books and records on the desks here, while we are at luncheon, and they will not be disturbed.

HON. MR. PORTER: I think they are perfectly safe.

THE CHAIRMAN: We will adjourn now until 2:30.

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---Whereupon, at 12:50 o'clock p.m., the Committee adjourned until this afternoon at 2:30 o'clock.

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## A F T E R N O O N  S E S S I O N

Toronto, Ontario,
Wednesday, April 14th, 1954,
2:30 o'clock, p.m.

- - - - - -

The further proceedings of this Committee reconvened pursuant to adjournment.

All parties present. (Excepting Mr. Oliver).

Same appearances as heretofore noted, with the exception of Mr. R. C. Dick, appearing in the place of Mr. Peter Wright, Q.C.

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THE CHAIRMAN: Gentlemen, the meeting will come to order. Before we call any gentleman before us, we may gain a little time by taking a glance at the documents presented here this morning.

MR. BECKETT, Q.C.: Would these be the same forms used in any and all contracts? It says --

THE CHAIRMAN: I think that should be cleared up. From what I have read of these, I would say "Yes", because it seems to cover all different types of things.

You will notice the payment certificate has been filed, showing the different offices, and if you just look at the items, you will get an idea of the

rates. This particular one (indicating) is for the period July 1st to July 31st, 1953, Certificate No. 8.

Under the heading of "Item", you get the different types of work done, the units, the total to date, the amount of the previous certificate, the amount for the month, and the rate, and then the totals.

At the bottom, you will notice there is the 15 percent. hold-back, the amount of the certificate, the amount of the previous certificate, the total certificates, the total hold-backs, and the total estimate to date.

The amount of this certificate (indicating) is filled in as $123,165. in this case --

MR. JANES: After the hold-backs?

THE CHAIRMAN: Yes. And certified correct, by the Division Engineer. You will notice the heading, "Recommended for payment", and a space for the signature of the Chief Engineer, and is checked by the Chief Drafstman, and the additions and extensions checked as to unit prices by the accountant, and then finally, approved for payment by the Deputy Minister.

Copies 1 to 7 inclusive to be mailed to the Chief Draftsman, the 8th copy to be retained by the

Division Engineer.

If you look at this, you will see where they go. There (indicating) is the contractor's copy, a copy for the contract office, one for the Chief Draftsman, one for the Division Office, one for control, one for the Accounts office, and one retained in the Division Office. That gives the distribution of these copies.

MR. JANES: We have a copy of the tenders here, too?

THE CHAIRMAN: Mr. Doucett is not here at the moment. I think where he left off this morning, he was about to ask Mr. Fulton to speak to the Committee. Perhaps we may proceed from there.

W I L L I A M  J. F U L T O N,

appearing before the Committee, but not being sworn, deposes and says:

BY THE CHAIRMAN:

Q Mr. Doucett had in mind your giving certain information concerning your Branch, and as the Committee have these forms (indicating), I think it might help to ask you to refer to them.

MR. GRUMMETT, Q.C.: Mr. Chairman, I think we ought to make some decision as to when we shall start swearing the witnesses. In an investigation

of this kind, I think what we had this morning was more in the line of explanations. From now on, it will be more or less in the way of evidence, so I think we ought to swear the witnesses from now on.

MR. WREN: I agree it should be a matter of routine from now on.

MR. JANES: This is only explaining these forms.

MR. BECKETT, Q.C.: Mr. Fulton will not give evidence. He is only explaining these forms.

MR. WREN: There might be questions to be asked.

THE CHAIRMAN: I think we are still confining ourselves to the same procedure as we followed this morning, but I do not suppose Mr. Fulton would mind giving his statements under oath.

THE DEPONENT: No, Mr. Chairman, I would not.

HON. MR. PORTER: I think if any member of the Committee prefers the witness to be sworn, that might be done. They will not say anything differently, I suppose.

---Whereupon R.C.Sturgeon was sworn as the official reporter.

---Mr. William J. Fulton, sworn as a witness.

THE CHAIRMAN: Mr. Doucett has just come in. May I ask him if he wants to outline what he has in mind,

so that Mr. Fulton can proceed.

HON. MR. DOUCETT: Mr. Chairman, I appreciate the opportunity, but as I said when I was sitting down, Mr. Fulton has all the details in writing, and he can give us, in a much better way than I can, all the information, and if there are any questions desired to be asked, I am sure he will answer them with the greatest preciseness and in exact detail.

THE WITNESS: Mr. Chairman, and gentlemen: I have just outlined the duties of my Branch, the same as hon. Mr. Doucett did for the construction and other branches.

BY THE CHAIRMAN:

Q Alright, Mr. Fulton. Will you please proceed?

A The surveys branch consists of the location section which includes planning, photogrammetry and design, the title surveys section, the traffic section, the drafting and cartography sections, and the contract checking section. It employs a staff of 457 including engineers, surveyors, designers, photogrammetrists, stenographers, clerks, rodmen, and chainmen.

THE LOCATION SURVEYS SECTION

1. Planning - Proposals regarding new roads, relocation or revisions of old ones are projected on existing maps or plans and are then discussed with

the Deputy Minister, Chief Engineer, etc., as to what surveys and investigations should be undertaken.

2. Traffic Survey - Traffic surveys are then made in order to determine traffic volumes, turning movements, etc., and from this data the importance of intersecting roads is indicated and the widths of pavement necessary to accommodate the highway traffic during the life of the pavement is estimated.

3. Origin and Destination Survey - On all new roads such as by-passes of cities or towns or new routes such as Toronto-Windsor, Toronto-Quebec boundary, Origin and Destination surveys are conducted in order to determine the potential traffic which would use the new road or the by-pass. This information also helps to determine the location which will service the greatest number of motorists. It also indicates where interchanges should be built, etc.

4. Photography and Suggested Line Projections - When revisions or new routes are selected from existing plans and approval for investigation of these is obtained, aerial photographs are taken and highway routes are selected from these which will fit the topography of the country and do as little property damage as possible.

5. Control Survey for Photos - Preliminary traverse lines are run for the control of the vertical aerial

photographs so that study plans of the area can be drawn.

Q When you get to a part you think is one which we should give careful consideration, will you stop, and if there is anything in front of us, we can follow, we may get a better appreciation of it.

A I would suppose you are primarily interested in the checking we do?

Q Yes.

A 6. Preparation of Study Plans - From the aerial photographs and the control surveys, detail study plans showing all the topographical features and cultural details such as buildings, fences, woods, rivers, lakes, railway lines, etc., are plotted.

7. Property Owners and School Sections - In location of Controlled Access Highways, property owners, school sections, mail routes, etc., are features influencing the final location. These are shown on the study plan.

8. Preliminary Location Projections - On these study plans location lines are projected. This gives a picture in perspective of the highway route and how it affects the surrounding territory.

9. Preliminary Survey (Compass Line Profiles) - The projected locations on the study plans are run with the aid of the aerial photographs and profiles secured

to check their feasibility regarding grades, etc.

10. Discussion and Approval of Highway Route - After the preliminary plans have been prepared and a rough compass line profile secured the proposed location is again discussed with the Chief Engineer.

11. Recommended Final Location Survey (Detail, Profile X-Sec.) - Up until this time all work has been of a preliminary or investigatin nature in order to determine the feasibility, economy of construction, etc. of the proposed route. We are now in a position to recommend the final location for the highway to follow. A detail survey is run in the field, profiles, cross-sections and soundings are secured in order to determine the quantities for the tender.

12. Office work, Plotting, Tracing, Checking - When all the field work has been completed, it is then sent to the drafting room where plans, profiles, cross-sections are plotted and traced onto tracing linen and checked against the original field notes.

13. Preliminary Designs and Grades - When the plans, profiles and cross-sections have been traced, preliminary grades are set taking into consideration limiting grades and site distances. At the same time, preliminary designs are made for overheads, underpasses, grade separations, bridge structures,etc.

14. Drainage Survey - Detail information is secured in the field to determine the size of the culverts for drainage of proposed new road and the surrounding area.

15. Soil Survey and Recommended Grades - When grades have been set, profiles are sent to the Soils' Branch with a request for a detail soil survey to determine whether or not the material in the road bed is suitable and what amount of granular material will be required.

THE CHAIRMAN: Does anybody know what "granular material" is? If there is anything to be explained, we might discuss it now.

THE WITNESS: That is selected material like gravel, and a good grade of sand.

BY HON. MR. PORTER:

Q "Granular" means sand or gravel, as opposed to material in large pieces?

A If the road bed is not of suitable material to hold water, we take it out, and then put in granular material.

Q That would be gravel, or something in small pieces?

A Yes.

BY MR. JANES:

Q Something which would give drainage, in other words?

A Yes.

Discussion and Approval of Design and Grades - When the recommendations are received from the Soils' Branch, the grades are adjusted and approved.

17. Topographical Intersection Surveys for Final Design of Structures - Detail surveys are required by the bridge office for the design of the structures and from these surveys plans are prepared and forwarded to the bridge office.

This required a staff of two hundred and ten men, engineers, draughtsmen, field men, etc., including fourteen in the traffic branch.

It is not necessary, of course, to do all that on every type of road. This we do on the Controlled Access Highways, and grade down from that. If it was re-surface job, of course, the old road is there, and there is very little work done on it.

BY THE CHAIRMAN:

Q If a contract was being called for, say, a 10-mile stretch of road, would you follow those procedures pretty thoroughly?

A Yes, that would be the procedure if we had the time to do it.

Q If you had the time to do it? What do you mean by that?

A Well, sometimes these contracts are called before all this work is done.

BY MR. WREN:

Q What percentage, Mr. Fulton, of the amount of total work such as for a road like the Atikokan Highway was done before the tenders were called?

A We took aerial photographs, and from those we located a line, and got some profiles, and from the profile quantities, the contract was called.

Q You got some profiles?

A Yes.

Q And did you get all the profiles you needed?

A After the contracts were called, the line was changed.

Q Was there not a fixed route established before you started setting up your profiles and cross-sections?

A Of the Atikokan road?

Q Yes, from Shebandowan to Atikokan.

A I think we followed the line pretty well.

Q There was one survey made in that section by one, I think his name was Bush, a civil engineer -- or perhaps a divisional engineer; I was pretty young in those days, but was that survey followed?

A Yes, pretty much. I think there was one

point that followed along the shore of the lake.

Q From this, if you followed the procedure you are using now, you would have had a reasonably close estimate of the materials required?

A Yes.

Q And would you suggest the percentage of error might allow for a profile of that kind?

A I think 15 percent. or 20 percent. if they did not change the grades during construction, if they followed the line originally decided upon.

Q You think 15 percent. or 20 percent. would be the outside margin of error?

A Yes.

BY MR. COLLINGS:

Q If the grades were not changed?

A Yes.

Q But they could have changed the grades.

MR. WREN: I am speaking of the original plan.

BY MR. WREN:

Q Were there any sections of that highway completed -- any 5-mile sections, or 10-mile sections -- were there any 10-mile sections where the grades were not appreciably changed?

A Oh, I would think so.

THE CHAIRMAN: Are you speaking generally? We

do not want to get into the particular sections yet.

MR. WREN: I happen to know that section of the country, and from the remarks of the witness, I am trying to tie in the procedure in that part of the country.

MR. COLLINGS: I think when dealing with one particular piece, the witness should have all the facts before him, before he is asked questions of that kind.

MR. WREN: This is on new roads.

MR. COLLINGS: When was it done?

MR. WREN: Last year.

MR. BECKETT, Q.C.: I think the witness should be allowed to carry on.

BY MR. MAPLEDORAM:

Q Were you intending to answer questions like that today, or just speak in a general way?

A In a general way.

MR. MAPLEDORAM: I think that is putting him "behind the eight-ball".

THE WITNESS: The Division Engineer made out the D-4 and sent it in, and from then on, the construction branch supervised the work. I did not have anything to do with it. The contract was finally completed, and it came in for checking.

BY MR. MAPLEDORAM:

Q You would not be in a position to give us

the details?

A No.

BY MR. WREN:

Q Let us get away from that road altogether. You were saying that any job you engineered, or built, or whatever term you used, you would not think would be out much more than 20 percent. of the estimates, if the grades were not changed?

A On the Barrie road, we went within 6 percent.

Q You think on that road, you would not be out more than that?

MR. MAPLEDORAM: I would say it would depend on the terrain. The Barrie road terrain is altogether different than the Atikokan Highway.

MR. JANES: And the fact they did not have the opportunity of getting a complete survey of it. They probably could not get in to do it.

THE WITNESS: That would be true. If we could not do all this work, the estimate would jump up much more than 20 percent.

BY MR. WREN:

Q Let us put it this way; are there many jobs in the last ten years where the pre-engineering has not been, say, 75 percent. completed, before the tenders were called?

A There would certainly be some jobs, yes.

Q Have you any idea, roughly, how many -- in percentage?

A No.

Q Would you say 60 percent. or 70 percent. or 80 percent?

A I would not like to say without referring to some records.

BY MR. GRUMMETT, Q.C.:

Q Would there be any contracts for, say, a 10-mile stretch, where you would go ahead and build the road without having secured the profiles from your own staff? Would you authorize the construction of any road without having first sent your own staff in, to prepare a profile of the complete work?

A On some of these contracts, my staff do not go in at all.

BY MR. WREN:

Q Before the tenders are called? I want to get it fixed as to your functions; are you one of those responsible for saying to the Deputy Minister, or somebody else, as the case may be, that the estimates are reasonable, and it has been properly planned?

A I have nothing to do with the approval of the estimates.

Q All you do is the location work?

A Yes.

BY THE CHAIRMAN:

Q Coming back for a moment, and taking a hypothetical case of a contract for building a road 10 miles in length; you have said this is the procedure which is set down to be followed, and I think in your statement, you used the term "I checked the amounts", which indicated there might be some occasions when it was not done completely. First of all, what is the normal practice as set down in the rules and regulations? Is it the normal practice you adopt, before any tenders are called?

A Yes, I would say that is the normal practice on all controlled access highways, in any event.

BY MR. WREN:

Q Would you say, Mr. Fulton, that it is possible in engineering practices, to determine what is or what is not a low tender on a job if the work which you do, and those who follow you, is not completed? You would only be able to determine --

BY THE CHAIRMAN:

Q Do you have anything to do with the tenders?

A No, I have nothing to do with them.

THE CHAIRMAN: Let us find out from the

witness what his job is.

MR. COLLINGS: I think we should find out what Mr. Fulton's duties are.

BY THE CHAIRMAN:

Q Will you proceed, Mr. Fulton?

MR. WREN: He has mentioned several of these things under his sub-headings. That is why I asked the questions.

THE CHAIRMAN: I know it is difficult at this particular time to know who is in charge of a particular job.

BY THE CHAIRMAN:

Q But this is the normal practice before tenders are called at all?

A Yes.

BY MR. MAPLEDORAM:

Q You are in charge of the aerial surveys?

A Yes. We do locations of most of the new roads. If we are re-surfacing an old road, we might not do any work on it. The Division engineer would prepare that.

Q You spoke about access highways; have you the same duties in regard to new highways as for access highways?

A We may prepare the plan and send it to the Division engineer.

Q What degree of efficiency would you say there was in aerial photography for a road like the road in the Steep Rock area, going through swamps, and things like that? What degree of efficiency would there be in the survey?

A To determine what?

Q The contour of the road, and all that sort of thing.

A You can determine very closely the best location, but without taking soundings, determine what type of material is there.

Q That would be entirely different from running a survey for the Barrie road?

A Oh,yes.

Q Entirely different?

A Yes.

BY MR. WREN:

Q When you prepare a profile--do you get to the point where you prepare profiles?

A Prepare profiles, and set grades, and that goes to the Division engineer.

Q Would you say when you prepare these profiles, and cross-sections, you are in a position to assure the hon. Minister or the Deputy, that a reasonable degree of accuracy can be obtained regarding quantities, or

are you responsible for that?

A No, I am not responsible.

Q Can you direct our attention, in the material you have in front of you, as to the part with which you are concerned, so we can take a look at the profile?

BY HON. MR. PORTER:

Q Have you a sample profile we can look at?

MR. BECKET, Q.C.: I think Mr. Fulton should explain his duties, just what he has to do before the road is started, and tell us as to where his duties end. The Committee then will know that he is not here to speak about contracts.

BY MR. BECKETT, Q.C.:

Q You have nothing to do with letting contracts?

A No, I have nothing to do with letting the contracts, nor with the quantities which go into the tenders which are made up.

BY MR. WREN:

Q The point I was making was this; when you deliver your profiles and other material, is it possible for a competent engineer to use this material to accurately estimate -- or within, say, 15 or 20 percent?

A I think very closely, yes, provided the road was built --

Q Without changing grades?

A Yes.

BY THE CHAIRMAN:

Q Will you proceed now, Mr. Fulton.

A This is a section which I think is important. "The Traffic Section of the Surveys' Branch was organized in 1946 and since that time it has been taking annual counts of the traffic volumes on the King's Highways.

"The Traffic Branch also makes studies of all applications for traffic lights and makes recommendations as to whether these lights should be installed or not. The Traffic Branch also keeps a record of all accidents which happen on the King's Highways and maps are drawn showing these locations and the accident prone locations are marked. These are locations where the accident rate is higher than the average for those particular highways and these prone locations are studied for the purpose of finding out if the number of accidents which occur here can be decreased by engineering methods. The Traffic Branch also carried out in the summer Origin and Destination Surveys. In this survey, a road block is set up and the motorists are stopped and asked questions as to where they are going, etc., in order to obtain statistics as to lengths of trips, routes

travelled and the purpose for which the highway is used and so forth.

"A great deal of information is secured by the Traffic Branch regarding speeds, clearances, and the travel habits of the motorists which enables us to classify and design our highways more intelligently.

DESIGN SECTION

"The design branch of the Highways Department receive the plans, profiles and survey information from the Location Section and from the Division Engineer and from this information grades are set for the construction of the highway. The Design Branch also design all the cloverleafs and interchanges on the Controlled Access Highways and they design channelization for intersections and generally deal with the design problems that are necessary for preparing an estimate and plans for the construction of the highway."

CONTRACT CHECKING SECTION

"The Surveys' Branch also check all the contracts which are carried out by the Department. The division engineer and his staff look after the construction of the highway under the supervision of the construction branch and when the work

is completed the highway is cross-sectioned and information of all the work done is sent in to the Surveys' Branch. This includes original and final cross-sections of the highway, profiles showing grade lines as constructed, diaries, field books, inspector's books showing records of material used, weight tickets, etc. This information is taken by the contract checking section and it is checked and any differences are noted and the summary of the contract is sent back to the division engineer for him to make out the final certificate in accordance with check quantities or to supply any additional information which is necessary for the checking of the contract. In this check sufficient information to substantiate the payment of quantities is demanded. The control of the construction in the field is done by the construction branch. That is, if the cut sections are wider than originally called for in the contract, then the construction branch are responsible for authorizing this -- "

BY MR. MAPLEDORAM:

Q Just how is that done if there is a change in the construction?

MR. JANES: Perhaps the Construction Branch

could explain that better. It may be more in their line.

THE WITNESS: "and also if the quantities are over-run, explanations are sent in to the chief engineer, explaining why and money is set up. The checkers of the contract are not concerned with what happened prior to the completion of the work. They are concerned with seeing that sufficient information is sent in which will substantiate the payments which have been made or remain to be made to the contractor."

BY MR. WREN:

Q Is it then before any highway construction, in checking with the contractor who submits his progress estimates to the Department, or is it always the case that the Department prepares the estimates of work and the engineer certifies as to it? In other words, does it never happen that contractor "X" would submit a bill for work done during a given month, and you have to check it?

A No.

Q He never submits a bill or statement, or whatever you call it?

A No.

Q I know it is done in other kinds of work.

A If it is work outside the contract, and he is

ordered to do it, he may submit a bill for that, but it does not come to me. It goes to the branch which authorizes the work, and he certifies it. A member of the Contract Branch goes out and checks it.

Q In which case your monthly estimate is initialled by the Department, and not by the contractor?

A That is right.

BY THE CHAIRMAN:

Q Just take your position with respect to this hypothetical contract: by the time your Department has finished with the work, are you then in a position to give an estimate to which tenders would be related?

A Yes, and we send this information to the Division Engineer, who uses our material, and makes the estimate. If he is not satisfied with what we give him, he may go out on the ground and secure additional information.

Q By the time you have finished your work, before the tenders are called, there is enough information gathered to give a general idea as to what the tender should be, related to the approximate amount, within certain bounds?

A Yes.

BY MR. MAPLEDORAM:

Q In your branch, Mr. Fulton, is there any

actual walking over the ground to see the work that is going to be projected?

A You mean after the work is started?

Q No, before you submit this estimate to the Division Engineer.

A We run a new line, and we take soundings, and all of that.

BY HON. MR. PORTER:

Q That is all done on the ground?

A Yes, that is all done on the ground.

BY MR. WREN:

Q This contract section you just went over, Mr. Fulton: if a contractor is not in the habit of submitting a monthly statement or estimate, if the estimates for any given month are in error, the contractor could not very well be held responsible for the errors in calculations?

A He is not submitting amounts.

Q You are submitting the amounts for him?

A The Division Engineer submits progress reports.

Q We could not hold the contractors responsible if there was something in that estimate which should not be there.

HON. MR. PORTER: I think we would have to have more understanding of the terms of the contract

before we can deal with that.

MR. JANES: I think this is more for the Contract Branch.

MR. MAPLEDORAM: Yes, I think that is right.

HON. MR. PORTER: That is a different thing entirely.

MR. MAPLEDORAM: This would be subject to what changes were made, and the authorization.

HON. MR. PORTER: We are dealing now with preliminary work.

MR. WREN: As I understand it, it is the witness's responsibility, from what he just read, to make a check of the actual contract after the work is underway; is that right?

BY MR. AMPLEDORAM:

Q You would be checking the construction figures?

A Yes.

MR. MAPLEDORAM: We will get that information from the Construction Branch, not from this witness.

BY THE CHAIRMAN:

Q Does this form come to you for payment?

A Yes.

Q It does?

A Yes.

BY MR. MAPLEDORAM:

Q I take it, Mr. Fulton, that your work is

preliminary to the contracts, and you have something to do with the final checking?

A That is right?

Q Against your original estimates?

A No, we presume that any changes have been authorized by the Construction Branch. If there was a thousand feet of pipe in the original tender, and we got records and field notes from inspectors that two thousand feet had been set in --

Q You are advised of any changes which are made?

A No, we are not.

BY HON. MR. PORTER:

Q You are checking the quantities after the changes have been made?

A Yes.

Q After the work has been done?

A Yes.

Q So there are two separate activities; the first is the preliminary stage before the contract is let at all?

A That is right.

Q And then, if there are any changes are made, after the contract is let, or any extras, or any changes which have to be made, then you check the work?

A I have nothing to do with the authorization. If I get in sufficient information --

Q You check the work which has been done as the result of the change in the contract? Is that it?

A Yes, I check the whole thing.

Q Oh, you check the whole thing?

A Yes.

BY THE CHAIRMAN:

Q I was going to ask you one question. In regard to this statement (indicating) which is the sort of thing which comes every month through the life of the contract -- is that right?

A Yes.

THE CHAIRMAN: We will mark this as Exhibit No. 2.

EXHIBIT NO. 2: Payment survey as identified by the Witness Fulton.

BY THE CHAIRMAN:

Q Supposing this comes in to you for each period, July 1st, 1953 to July 31st, 1953 -- who sends it to you?

A The Division Engineer.

Q What do you do with it after you receive it?

A I do not do anything with it. It is the progress estimate.

Q You have nothing to do with it?

A No.

BY MR. WREN:

Q If it was a final estimate?

A I check with these items which are finalized.

Q And you sign it?

A Yes.

BY THE CHAIRMAN:

Q In the case of a final estimate, you check everything?

A Yes.

Q And you are one of the signing officers for the final payment?

A Yes.

BY MR. WREN:

Q That material in quantity; in dealing with that form D-4, you get a final estimate, and you are checking the materials; would it be reasonable to assume you would notice any unauthorized quantity in that final estimate, any over-run, or something which you thought might be excessive, inasmuch as you prepared the original profiles?

A If these over-runs have been authorized by the Division --

BY HON. MR. PORTER:

Q Could we look at one of the items on this

statement? I do not know whether the figures are the same. I think they are. This is a statement -- "payment certificate, Department of Highways", it is called, for the month of July, 1953, and this contract No. 1, "Cleared", as an example; that is estimated on a pretty accurate basis, 135 is the total number of acres cleared up to the end of July, 1953. Is that right?

A Yes sir, that is right.

Q And the previous certificate covered up to 125 acres?

A Yes.

Q Just up to the beginning of July, 1953?

A Yes.

Q So, in July, 1953, 10 acres were cleared?

A Yes.

Q And the rate of $75. per acre would be the contract rate for clearing?

A Yes.

Q If I am wrong, correct me. The total for the month for clearing is $750., and the next column shows the total up to date, inclusive of everything?

A Yes.

Q The total cost of clearing up to date?

A Yes.

MR. COLLINGS: Is this a complete job, Mr. Attorney-General?

HON. MR. PORTER: No, this is up to the 31st of July, 1953.

MR. JANES: That is for the month of July, 1953.

THE CHAIRMAN: Have we a final certificate?

HON. MR. DOUCETT: I gave you two which were final in every detail.

BY HON. MR. PORTER:

Q You do not check these particular monthly certificates at all?

A No, I do not go out on the ground.

BY THE CHAIRMAN:

Q If you could tell us what you do when a final one comes in?

A I can tell you what I do on the final end of this clearing and grading.

I would have to receive field notes. If this was the final acreage cleared, 135, I would have to receive field notes from the Division Engineer showing where this clearing took place, and sufficient information to confirm the acreage. If I got that, I would o.k. these quantities. If my calculations only showed there were 130 acres, instead of 135, I would

send the sheet to the Division Engineer, asking him where the other 5 acres came from.

Q All you have are the field notes he has sent in?

A Yes.

Q And if they did not jibe with your statement, you would ask for an explanation?

A I would ask for additional information.

BY MR. WREN:

Q You check for any items which appear to be excessive?

HON. MR. PORTER: I do not know that that is what he said.

MR. COLLINGS: No, he did not say that.

BY HON. MR. PORTER:

Q Let us see if we understand what you said. You get a statement similar to this (indicating) covering, say, 135 acres, and you check that with your field notes, and you find they only indicate 130 acres?

A That is right.

BY THE CHAIRMAN:

Q So it is not a question of making any estimate or using any particular judgment, as to whether it looks to be too much or too little; it is a question of whether that "135" jibes with your field notes?

A That is right.

Q And if it does not, you want an explanation?

A Yes.

Q And if he cannot explain it, the 130 acres would apply?

A Yes.

BY HON.MR. PORTER:

Q Would this apply to grubbing?

A Yes, to big items, like excavations, I have the final progress notes.

Q The field notes, from the Division Engineer?

A Yes.

Q Those are the original field notes?

A Yes, and they have to substantiate the plotting.

BY THE CHAIRMAN:

Q But in the course of doing the work, do they have to clear any more than the field notes indicate, at times?

A Than was originally called for?

Q Yes.

A Yes.

Q These field notes, of which you spoke; can you explain what field notes they are? Are they the original field notes, or field notes made as the contract goes along?

A For excavations, I would get the original

cross-sections, and the original field notes, which would be made before the contract started. After the contract was completed, they would cross-section it again, to see how much was taken out, and I would get those notes.

BY HON. MR. PORTER:

Q There are two sets of field notes?

A Yes.

Q The preliminary field notes which are made before anything is done at all?

A Yes.

Q Which really are for the purpose of giving a rough estimate of what would have to be taken out?

A Yes.

Q And the next set of field notes are after the work has been done up to a certain point, and those field notes are supposed to show what actually was done, either clearing or grubbing, or whatever it may be?

A Yes.

Q And if the second field notes do not jibe with the figures in the certificate, you demand an explanation?

A Yes.

BY THE CHAIRMAN:

Q When do you first see these field notes?

When does the second set first come to you?

A When the job is completed.

Q They are not set out at any period in between the commencement of the job and the final certificate?

A No.

BY MR. COLLINGS:

Q When you send that information out to the field engineer as a preliminary, for the engineer to prepare an estimate of the cost of putting this road through, do you get back the figures on which the estimate was based?

A No, I do not. They come in to the Construction Branch.

Q When you are checking the final certifisate for payment, do you check with that estimate? Supposing the Division Engineer said there would be, in this case, 100 acres of clearing.

A Yes.

Q Do you get that information?

A No. I presume the Construction Branch or some of the engineering people who are supervising this job have authorized that.

Q Supposing the estimate on the final certificate for clearing is 35 acres more than they estimated, with whom would you check to find out who authorized it?

A No. If I have information showing there were 35 acres more, as far as I am concerned, the payment is made.

Q You make the payments on the statements of the Division Engineer?

A On the information he sends in.

BY THE CHAIRMAN:

Q Perhaps that is not quite right. You actually sign a certificate if you are satisfied?

A Yes.

BY MR. COLLINGS:

Q Who checks the Divisional Engineer, with his estimates?

MR. MAPLEDORAM: That is done against the contract.

BY THE CHAIRMAN:

Q We will get that gradually. I think we are trying to get too much at once.

THE WITNESS: I think if the Division Engineer finds he is running over, he sends in an additional D-4 to the Chief Engineer, not to me. And the Chief Engineer will authorize the additional work, setting up a work order for it, if it requires more money, and when I am checking the contract --

MR. COLLINGS: I do not know whether you

are the proper person to ask this question, but the contract is made on the estimates prepared by the Department?

THE WITNESS: Yes.

BY MR. COLLINGS:

Q That is what he goes by, in preparing his bid?

A Yes.

Q When he gets into the actual work, he may find he has to clear more acreage than is in the estimate, upon which he has bid; who authorizes this extra work to be done?

A The Construction Branch or the Chief Engineer.

Q On their o.k., which they send back to you, that is what you take as your authority for passing the accounts?

A No, I do not get them. If they authorized it, and the money is set up, I check the quantities the Division Engineer sends in.

Q What I am trying to find out is this; let us consider a bid of $1 million to do a certain stretch of road, and the final cost is up $25,000. or $30,000. over the bid; that is done by authorization for some extra work?

A Yes.

BY THE CHAIRMAN:

Q It may be building up, month by month.

MR. JANES: If I may interrupt; it seems to me if I had an original contract for this job, --

BY MR. MAPLEDORAM:

Q Mr. Fulton, there is 100 acres of clearance in the estimate, and what he did on your price -- how much was your estimate?

A Not on my estimate.

Q The original estimate of the Department?

A Yes.

Q And if he finds there are only 75 acres, what happens?

A He gets paid for the 75 acres.

MR. JANES: All the witness is doing is checking the figures.

HON. MR. PORTER: Checking the figures with the work field notes to make sure the figures correspond with the field notes.

THE WITNESS: Yes.

MR. JANES: Let us take an actual contract.

THE CHAIRMAN: I have a contract here, 52-32, a completed contract, it is a form of contract for grading 3 miles of road. All the members of the

Committee have specimens in front of them, and I think we could follow it right through.

MR. COLLINGS: Is that for general work?

MR. MAPLEDORAM: No, I do not think it is.

MR. COLLINGS: Then I do not think it is fair to ask these questions.

THE CHAIRMAN: Who is the best man to give us the general picture?

HON. MR. DOUCETT: I think Mr. Clarke would be better; he is the Chief Engineer.

BY MR. WREN:

Q Just one more question, Mr. Fulton; in checking the field notes against this estimate, progressive or final, assuming the estimate is final, and checking the original against the final estimate, you would have noticed that the field notes themselves showed there was perhaps $25,000. or $30,000. more material in these field notes than appeared from your own original profile -- assuming it is without changing the grade; would you report to your superiors, to have that checked?

MR. COLLINGS: He says he does not get it.

MR. WREN: He said he checked the field notes against the estimate.

THE WITNESS: Not my field notes.

BY MR. WREN:

Q No, the engineer's field notes.

A Those cross-sections are plotted, and I check the plotting against the field notes sent in, and I take off the quantities from the section,and if the figures did not agree, I would ask the Division Engineer to send in further information, and if he does not, I would send it back to him and point out the error or deficiency.

Q You only send back the engineer's report; would you send a memorandum to the Chief Engineer too?

MR. COLLINGS: I think, Mr. Wren, we all want to get this clear. Mr. Fulton said he does not receive the estimates on which the sheets are prepared.

MR. WREN: He gets the final estimates.

MR. COLLINGS: No, only the Division Engineer's report on the work completed. That is not the estimate she

BY MR. COLLINGS:

Q Do you have anything to do with the estimate sheet on which the bid was prepared?

A No.

MR. COLLINGS: Then how could he check with an estimate on which the bid was prepared?

MR. WREN: The gentleman just got through telling us he checked the final progress estimate against the Division Engineer's field books.

THE WITNESS: Against the original cross-section.

BY HON. MR. PORTER:

Q Have you the original cross-section or profile, or whatever you call it? I think you have it there?

A Yes.

THE CHAIRMAN: Will you describe it, and then it will be marked as Exhibit No. 3.

EXHIBIT NO. 3: King's Highways, existing roads -- profiles, as identified by the witness Fulton.

THE WITNESS: I do not think this really shows the point I was trying to make. This is a profile with certain lines on it. This black line (indicating) is the centre line of the road that is to be constructed. I do not know whether it is a new road or an old road. It would look from the lines here (indicating), that it is old pavement.

BY THE CHAIRMAN:

Q Before you start on that: would this be prepared in your Department, as a result of a preliminary survey before the contract is let, and before tenders are called?

A Yes.

BY HON. MR. PORTER:

Q What does the "800" mean?

A This is one that was done in my Branch (indicating).

BY MR. COLLINGS:

Q Is that a new road, or a re-surfacing job?

HON. MR. PORTER: It is a profile of the King's Highway.

THE WITNESS: Yes, it is an existing road.

BY THE CHAIRMAN:

Q This is the sort of thing which is for information in the Highway Department, before calling for tenders for a contract?

A That is right. This (indicating) goes out to the Division Engineer, who makes an estimate of the quantity to go into it.

BY MR. COLLINGS:

Q It goes out to the Division Engineer, to make an estimate of the quantities?

A Yes.

Q And when he is finished with it, he sends it back to you for the basis of checking when the certificates do come through?

A No, it goes back to the Construction Branch.

Q So you have no way of checking the final certificate with the estimate on the sheet? You only check what actual quantity is used, as authorized by

the Division Engineer?

BY MR. WREN:

Q That was the point of my question. This man checks the final estimate, as submitted on this form, DE-5, against the report of the engineer, as to the amount of work done.

MR. COLLINGS: Yes.

MR. WREN: To get back to my question; does this final report from the Division Engineer indicate to Mr. Fulton that from this profile he has prepared, it is 20 percent. or 30 percent. or 40 percent. more than perhaps it should have been. He would check back --

MR. COLLINGS: No, he does not.

THE WITNESS: I am presuming that is something the Construction Branch has authorized.

BY MR. WREN:

Q You are assuming?

A Yes.

Q How can you check that, if you are just assuming?

HON. MR. PORTER: I do not think the Committee is clear as to just what Mr. Fulton's functions are. I think they are very simple, and very definite.

BY HON. MR. PORTER:

Q You have a certain statement before you, where

135 acres is claimed to have been cleared, and your job is to look after the field notes which have been presented in the course of the work which has been done, and which, when properly read and interpreted, would indicate to you whether "135" is the right figure?

A Yes.

Q That is really all for which you are responsible?

A Yes.

BY MR. WREN:

Q You know nothing about the original surveys?

MR. GRUMMETT, Q.C.: What great bearing would that have on the whole contract, Mr. Attorney-General? I think he should check back to the original contract.

MR. WREN: This is important. If this man is in charge of the surveys and planning division, and it is his job to survey and plan these things, and submit this technical information to the Division Engineer, from which he can estimate his quantities, and from the engineer's books of record, he can certify to the Chief Engineer, on this final certificate, that the quantities are reasonable, from these remarks, --

HON. MR. PORTER: He is not certifying the quantities are reasonable.

MR. JANES: He is certifying as to the amount which is moved.

MR. COLLINGS: That is, according to the figures.

MR. WREN: Let me finish my point, please. He is certifying in this certificate that the information given to him by the field engineer is proper, and corresponds with the estimate of quantity.

HON. MR. PORTER: According to the field notes.

MR. WREN: If that is the case, and if he notices in regard to this "clearing" that the field notes show, and the estimate shows, there is 190 acres of ground cleared, I would assume he would send it back to the Division Engineer, for re-checking.

MR. COLLINGS: That is what he said.

HON. MR. PORTER: Yes, that is what he said.

MR. WREN: This is my question; when he sends it back to the Division Engineer for checking, he says, in effect, "There may be some mistake", does he also send a copy of the memorandum to his superior officer in the Department?

MR. COLLINGS: I do not think,Mr. Wren, you get the point.

THE CHAIRMAN: I think what Mr. Wren wants to find out is if, in addition to sending it back to

the Division Engineer, he reports to any other senior officer.

MR. COLLINGS: When Mr. Fulton gets these reports, all he does is add up figures, as to the actual work done, and that has nothing to do with the estimates whatever.

MR. GRUMMETT, Q.C.: He is acting for the Survey department, and adding the figures which have to do with the Survey department.

THE WITNESS: If the original tender is overrun, during the progress of the contract, somebody has authorized that.

BY MR. COLLINGS:

Q That would show in the final certificate, and you do not question that?

A No.

BY MR. WREN:

Q If it was not authorized, it would not get to your desk at all?

A No.

HON. MR. PORTER: He has no responsibility for authorizing it at all.

MR. WREN: Why should not the surveyor and planner make a final check on it?

HON. MR. PORTER: All that Mr. Fulton can tell

us is what his duty is, and what he does. We may find out from some other official as to the other point.

THE CHAIRMAN: In regard to this, we will have plenty of time to go into the details in full, but I think now it is for the Committee to get a real grasp of the procedures, and to do that, we must have that presented by several Departmental officers, and I think we should let them present it. The opportunity to enquire into these things will come later, and we will not lose anything by it.

I think we might clear that up by hearing these two or three witnesses, and if there is anything wrong with the procedure, they can be recalled.

MR. WREN: The reason I am asking this question is to get clear in my mind as to what his duty is when the estimates come before us, we can ask more intelligent questions.

Mr. Fulton has already told us that the contracting firm will submit a bill, and the Department approves of it and certifies it. Mr. Fulton's job is to check the quantities sent in by the Department against the final certificate, and I should think his responsibility would be to report to a superior officer, when it appears the Division Engineer's figures are not compatible with what may be reasonable.

THE CHAIRMAN: I think he has told us the procedure, very well. I will just try to summarize it, if I may.

BY THE CHAIRMAN:

Q When you come to signing a certificate for final payment, you rely on field notes and information sent in to you by the Divisional Engineers, and if those field notes are not correct -- do you rely entirely on the field notes, as they appear to you?

A We check the levels, to see they are not falling behind, and that they are correct. We check the levels against the plotting, and we calculate the quantity of earth and rock, and the amount of pipe, from the information sent in. If we get information from the Division Engineer to substantiate these figures, I sign the certificate.

BY MR. MAPLEDORAM:

Q How many of these profile maps are prepared, and where are they kept?

A They are kept in the files office.

Q Has the Division Engineer a copy of that?

A Yes, he gets a print.

Q And you have a copy?

A I have the original.

Q And any changes which are made from this are

made progressively on your copy, as well as his?

A No, they are not. I do not know whether this contract is completed or not, and this (indicating) would be the original profile, and the changes do not appear on anything except the Division Engineer's own documents. They appear on the cross-sections, and I check from those.

BY MR. GRUMMETT, Q.C.:

Q Then you would have to check with your cross-sections as against the original profile, in order to see that they were correct?

A Yes.

Q That would mean quite a task, would it not, Mr. Fulton?

A Oh, yes.

Q Would it not be possible to lay down a profile, and sketch in on the original profile, the changes which have been made, from the cross-sections?

A Yes, we could do that.

BY HON. MR. PORTER:

Q Let us get clear as to the difference between a "cross-section" and a "profile"; or are they the same thing?

A No, one is the length of the road, and the other is at right-angles.

Q The cross-section is at right-angles?

A Yes.

Q And the profile is --

A Lengthwise.

BY MR. COLLINGS:

Q It is a different look?

A Yes.

BY HON. MR. PORTER:

Q It is as if you got out in the middle of the room, and were looking at that wall (indicating)?

A Yes.

Q That is the profile; that is what you have before you as an Exhibit?

A Yes.

Q And the "cross-section" is cutting across, as if you were looking at the other wall?

A Yes. And the levels in the centre here (indicating) should be the same levels as on the centre of the profile.

BY MR. JANES:

Q How long have you been with the Department?

A 33 years.

BY MR. GRUMMETT, Q.C.:

Q Referring back to one of your answers, at the beginning of your testimony --

BY MR. COLLINGS:

Q Has this same procedure been carried on for 33 years, checking the final certificates against the field engineer's report?

A Yes. I think so, although I did not start doing it until 1950.

BY MR. GRUMMETT, Q.C.:

Q Going back to the first part, where you referred to contractors obtaining some of the plans and profiles of the Department; do they rely solely on those plans and profiles, or do they send out their own engineers as well, and make their own plans before submitting their tenders?

A They should, to ensure themselves that our information is right. They should go out on the field, and do whatever checking is necessary.

Q Would they do it, as a general rule?

A Oh yes, they walk over the job with our plans and profiles, and look the job over, before they put in a bid.

BY MR. MAPLEDORAM:

Q How many contracting firms employ engineers for that sort of work?

A I do not think very many of them have engineers.

Q In other words, they pretty well accept your estimates as to what is going on?

A They have some engineers who do go out and look over the jobs.

BY HON. MR. PORTER:

Q Have you a sample of the cross-sections there?

A Yes.

HON. MR. PORTER: I think it would be well to have something filed, as an illustration of what a cross-section is.

EXHIBIT NO. 4: Cross-section of road, 48-95, as produced by the witness Fulton.

---The witness retired.

- - - - - -

W I L L I A M J O H N S O N C L A R K E,

Acting Chief Engineer, Department of Highways, being called and duly sworn, testifies as follows:

BY MR. BECKETT, Q.C.:

Q I wonder if you would just tell us briefly what procedure is adopted?

BY THE CHAIRMAN:

Q You are the Acting Chief Engineer of the Department of Highways?

A Yes.

Q We would like to get this afternoon, as far as possible, the procedure, and I think, as we have these contracts here in the form of Exhibits, if you just follow them through. I would suggest you take the Committee right through the procedure, from the time the Department decides it wants to build a 10-mile road, right through to the final payment.

A Well, as Mr. Fulton has explained, up to a point, the estimate comes in from the Division Engineer, The Division Engineer makes up his estimate on what is called a "D-4", and after it comes in -- I think if I had the other file there (indicating), I could explain it better.

THE CHAIRMAN: Perhaps we had better file it, and then it will be available.

EXHIBIT NO. 5: Contract file, No.52-32, as identified by the witness Clarke.

THE WITNESS: Will you give me No. 52-47, because it has the estimate on it.

THE CHAIRMAN: Yes, that may also be filed.

EXHIBIT NO. 6: Contract file, No. 52-47, as identified by the witness Clarke.

BY MR. COLLINGS:

Q Now, you are going to speak of Exhibit No.6?

A Yes.

This (indicating) is the estimate the Division Engineer sends in, and it has all the different items or quantities, and granular materials.

He puts down the prices, of what he thinks the work could be done for. Then he makes up a total. On the other side, are the materials required, which the Department supplies, the estimated materials, engineering sundries, and construction, something like fencing and guard rails, or signs, apart from the estimated tender.

The total amount on the sheet, which includes all these items, is shown on the back of the sheet.

Q That is form --

A That is the D-4. This goes into the Construction Branch.

It is signed first, of course, by the Division Engineer, right here (indicating), and the Construction Branch signs it, and here (indicating) are his initials. In this particular case, the Chief Engineer might have been absent -- which is a fact, in connection with this case -- and the chief engineer of Construction signed it, and it was taken as o.k.

On the basis of this estimate, the Construction engineer prepares the advertisements --

BY MR. MAPLEDORAM:

Q That is, quantities and everything?

A Yes.

MR. JANES: May I ask a question?

THE CHAIRMAN: Certainly.

BY MR. JANES:

Q The contractor does not see that sheet at all?

A Oh, no.

Q That is for the Department?

A Yes sir. The contract is called, and the bids come in --

BY MR. COLLINGS:

Q When Mr. Janes said the contractor "does not see that"-- he sees the quantities?

A Yes.

Q But not the prices?

A No.

BY MR. BECKETT, Q.C.:

Q How does he get the quantities?

A They are recorded on the tender sheet. You have a typical example. That (indicating) is what the contractor sees.

BY MR. WREN:

Q And the quantities are an exact copy of D-4?

A Yes.

BY MR. JANES:

Q And are the costs filled in by the contractor?

A Oh yes, that is, the price.

BY HON. MR. PORTER:

Q All these figures (indicating) are the contractor's figures?

A Yes.

Q And what he sees is this tender form (indicating) without any figures at all, except those appearing in the second column?

A Yes.

Q The estimated quantities?

A Yes.

Q He has to put in the amount he is prepared to tender, in this case, per acre?

A Yes.

Q And the total?

A That is right. Of course, attached to the tender, he has the specifications which guide him as to how to bid, and the tenders come in on a certain day, according to the advertisement which is shown here (indicating), and the contract is awarded.

BY HON. MR. PORTER:

Q Before he gets the form of contract, he sends in a tender, and it is opened?

A Yes.

Q All this is part of the tender?

A That is right.

Q So that he tenders on those specific figures, and according to the terms of this form of contract which is attached?

A Right, sir.

BY MR. WREN:

Q These estimated quantities, in this typical tender (indicating) are always exactly the same as the D-4?

A Yes.

Q They are never changed?

A No sir.

Q They are transposed from D-4, signed by the engineer, to this tender sheet?

A Yes.

BY MR. MAPLEDORAM:

Q Mr. Clarke, in relation to the estimated quantities; what happens when they are raised or lowered? Who authorizes that?

A Usually it is the Construction Branch which authorizes it, -- the men, throughout the field.

Q In other words, the man in charge of the job in the Construction Branch, is the one who makes the final figure? If you say there are 150 acres in the estimates, but there are only 100 there, he has the figure?

A Yes.

BY MR. COLLINGS:

Q Just on that, say it calls for 150 acres to be cleared, and the Division Engineer's total is that the contractor cleared 200 acres --

A Yes.

Q Who would be responsible for explaining why, when the estimate was made, there was only 150 acres to be taken out?

A The 200 acres would be authorized by some Head Office official prior to the work being done.

BY MR. GRUMMETT, Q.C.:

Q On whose authority, or whose instructions?

BY MR. WREN:

Q Which official?

A The Chief Engineer for construction is the man who does that.

BY MR. GRUMMETT, Q.C.:

Q Then he must have found an error in the estimate submitted by the Division Engineer.

A Yes, or for various reasons, they might want to widen the roadway. They might want to widen beyond the 100-foot limit,which would entail more clearance.

BY MR. COLLINGS:

Q That would be authorized?

A Oh, yes.

MR. GRUMMETT, Q.C.: It would have to be authorized before it is done, by somebody.

BY HON. MR. PORTER:

Q In the tender, the number of acres is set forth by the Department -- "100 acres"?

A Yes.

MR. GRUMMETT,Q.C.: From information supplied by the Division Engineer.

BY HON.MR. PORTER:

Q Yes. When the work commenced, it was found there were actually 200 acres to be cleared?

A Yes.

Q There is some provision in the contract to allow the contractor for the extra 50 acres?

A We pay him for the work he does.

Q It was $75. an acre here, (indicating)?

A Yes.

BY THE CHAIRMAN:

Q Providing he gets the authority for it.

A Yes.

BY HON.MR. PORTER:

Q But he has to have authority to do that?

A Yes.

BY MR. MAPLEDORAM:

Q What form is used in that, Mr. Clarke?

THE CHAIRMAN: Extra work, Section 103-3.

THE WITNESS: There would be a typical form, authorizing extra work.

BY MR. BECKETT, Q.C.:

Q Signed by whom?

A By the construction engineer, and Mr. Zoller, the Comptroller of Finance, on another D-4, such as is before the Construction Branch.

BY THE CHAIRMAN:

Q We might easily follow that, if we look at page 4 of this specimen. You will see 103-3,"extra work" , it says:

"No work shall be regarded as extra work unless it is approved in writing by the Chief Engineer".

THE WITNESS: Yes, that is right.

THE CHAIRMAN: I think it would be a good thing if we ran over a few of these --

BY MR. WREN:

Q To get back to the D-4; I want to get this point clear. The quantity which the Division Engineer initials on the D-4. From what Mr. Fulton told us a while ago, the Division Engineer gets his information from those profiles and cross-sections?

A Yes.

MR. MAPLEDORAM: Plus the survey plans.

BY MR. WREN:

Q And you are sure, when he enters these quantities on this D-4, they are never changed?

A Yes, that is right.

Q They are not changed in any respect?

A Oh well, there may be changes made by the Construction Branch before the tender is called, Mr. Wren. For some reason or other, the type of asphalt or the type of pavement or the type of stone, might be changed.

Q That is changing the quality of the material.

A Yes, and the quantity, perhaps. If the surveys and plan show, as this does (indicating), 245,000 yards of earth excacation, and the Division Engineer accepts tht figure down here, that might be changed. There would be no change in the figure, without consultation with the Division Engineer. These figures are not changed.

Q Let us follow that up: your Construction department suggests that perhaps you change the quantity of road excavation, then what? I would take it you would send this D-4 back to the Division Engineer, and get him to amend it, and initial the change?

A Yes.

Q The point I am making is that once he finally signs this -- in this case, it is Mr. Tackaberry -- they are final?

A Yes.

Q And they would not be changed on another D-4?

A No sir, they would not be changed.

THE CHAIRMAN: This afternoon, it seems to me we gain considerably if we follow the contract. A great number of the answers are right in the contract, and if Mr. Clarke would draw attention to the provisions of the contract, we will find a number of the answers in there.

MR. WREN: We want assurance that the provision is being followed.

THE CHAIRMAN: What I am trying to do today is to get what should be done if the contract is followed.

If you look at page 11, you will see that on page 1 and for several pages following, there are certain definitions. I have marked a few "Advance to contractor", and "Alterations and changes" on page 4, I think is something with which Mr. Clarke might deal with today. He might pick out some of the important things, and say what the contract calls for.

BY THE CHAIRMAN:

Q As I understand, Mr. Clarke, every contract let for construction is in this form (indicating)?

A That is right.

Q Let us look at page 4, and at the heading, "Alterations and Changes", No. 103-2.

A Yes.

Q Would you just go into that?

A "The Department may make such alterations as it may see fit in the lines, grade, form, dimensions, plan -- "

and so on.

If, after the job has been called, for some reason or other, we wish to change the line, or the grade, for the benefit of the road, we have that privilege without having to meet claims from the contractor. That is a condition under which he bids, that we can make changes.

Q And they do, I take it?

A Yes.

Q But the point here is, there is procedure for making them?

A Yes.

Q But it must be by a further written contract between the parties; is that it?

A Yes. The contractor agrees to the work when it is changed. It is not always in writing, but he "goes along" and does the work.

BY MR. MAPLEDORAM:

Q It is not always done in writing?

A No, it is a safe practice, provided the changes are not major.

BY MR. COLLINGS:

Q Supposing some municipality makes representations to the Department, after the tender is let, for a certain change, and after that representation, and consultation, you decide to alter a twist, or something, in the road; that work is authorized, and the contractor makes due changes?

A Right.

Q And that is provided for?

A Yes.

BY MR. WREN:

Q Is there any fixed minimum amount, Mr. Clarke, which is used, without the necessity of a written order to change? In other words, is there a cost, the engineer and contractor on the job mutually agree upon, which deepens this cut an extra six inches. What amount of money would have to be involved before getting a written order?

A I cannot remember there is any definite amount of money, but if it increased the tender price -- that is, if it increased the total over-all cost, there would have to be this authorization. If, on the other hand, it decreases the cost, there probably would be no authority required.

Q When you say "it would increase the cost", you mean of the individual item?

A Yes, it might be in one item.

Q You do not mean the over-all total?

A Oh yes, it would have to be the over-all total which would be increased.

The Division Engineer has to make up his own mind, and give a decision, and he can make minor changes within the scope of the contract itself. But if he is going to increase some of the items by other changes, which will add another 25 percent., authorization has to be given.

Q Supposing it does not increase the over-all total, but that circumstances substantially increase one particular item, what would happen then?

A I would say if the increase was of a major proportion, he would have to get authorization.

BY THE CHAIRMAN:

Q That would be "extra work"?

A Yes. I am not sure of the definite figures.

Q Supposing it was $10,000.; would he have to have that approved?

A I think he would.

BY MR. WREN:

Q What about $5,000?

A I cannot give you the figure. I would have to look that up.

BY MR. JANES:

Q Circumstances might change the situation?

A Yes.

BY MR. COLLINGS:

Q What scope of authority would the resident engineer have on the job, without having it come back?

A He could not, without authority, spend more than the amount of money in the tender price.

BY MR. WREN:

Q There is one other difficulty there: supposing there is a miscalculation somewhere along the line. This estimate (indicating) is $197,000.; supposing he was 100,000 yards out on the earth fill, or the grades were changed, and did not need that fill, he could still increase some other item substantially without increasing the over-all total?

A Only to a point.

Q Just what is that point?

A I would say 10 percent. or 15 percent.

Q Of any individual item?

A Yes.

THE CHAIRMAN: Now, if you will look at page 5, "Engineer's authority", No. 104-1. It says:

> "The engineer shall supervise and direct all work included herein; he shall determine the quantities of the several kinds of work which is to be paid for under this contract, and he shall determine all questions in relation to said work, and the construction thereof." --

I think, wherever the word "engineer" is used, it refers to the Chief Engineer.

THE WITNESS: Yes. Actually, there are two parts to a contract. There is what is known as the "General Agreement", which contains the conditions of the contract, and there are the "Specifications". The engineer's authority, as referred to in the General Agreement, which is what we are looking at, is the Chief Engineer, or his delegated authority.

BY THE CHAIRMAN:

Q How far can he delegate that authority?

A I think it remains within Head Office.

BY MR. WREN:

Q Who finally determines it? Is the Chief Engineer responsible for determining the reasonableness or otherwise of the alterations?

A No, not the Chief Engineer. His duties are more or less in an administrative capacity, and he has to depend on many people below him. He cannot go into all the details, like that.

Q If Mr. Tackaberry wanted to increase the earth excavation by 15,000 yards, who in Toronto would approve it?

A Mr. Tackaberry would get in touch with the Construction Branch, and say, "This is what I would like to do", and somebody would go out and see it.

Q Who would be the approving officer?

A The chief engineer of Construction, or the assistant chief engineer of Construction, or one of his assistants.

BY THE CHAIRMAN:

Q This item 104-2, "Supervision and Instruction" --

A On all contracts, the Division Engineer has a staff of men and field engineers and inspectors, who do the major part of the work, but Head Office officials and Construction Branch officials in the cases of construction, make periodic inspections to

see that the work is living up to the terms of the contract.

Q It is the practice of Head Office engineers to do that?

A As much as we have time to do that work, we get out and inspect the work.

BY MR. COLLINGS:

Q 104-5, "Deviation from the Plans"?

A Yes.

BY THE CHAIRMAN:

Q On page 6; the deviations shall not be permitted without the written order of the engineer?

A That is right. I think maybe you will find in all engineering organizations, there are a number of things which should be put in writing, but there is a sort of mutual trust between the working forces, and if it is a minor change, or something like that, it is not included in that form. Somebody may record it in a diary, or something like that.

THE CHAIRMAN: Now, No. 104-7, on page 6, "Lines and Grades". It says:

"The engineer will set such stakes as are necessary to mark properly the general location, alignment, elevation and grade of the work. The contractor shall assume full responsibility for

detail dimensions and elevations measured from the lines." --

and so on. That is set out very clearly.

On page 7, 104-9, "Contractor's personal responsibility".

THE WITNESS: Well, a contractor is responsible for the carrying out of the work, and completing it in accordance with the conditions and specifications, and he certainly wants to assure himself. We do not guarantee any of these quantities. He bids on a unit price. In case of necessary changes, we can make them. The contractor assumes quite a risk, unless he inspects the job carefully.

BY HON. MR. PORTER:

Q He is always "stuck" with the unit price of the contract, and if there is any extra work which has to be done, then the same unit price applies?

A Yes.

Q If extra acres are to be cleared, it is the same price per acre?

A Yes.

BY THE CHAIRMAN:

Q Under "Control of Materials", on the same page. In 105-1, we find, "Source of supply and quality of materials ".

A Yes, we supply materials; for instance, we supply all the vital materials, such as cement, structural steel, corregated steel, and so forth. It is shipped to him in his care, and after it arrives on the siding, or is trucked in, he is responsible for any loss or damage which may occur.

Q 105-2, "Defective work and materials". That is the next one, and it says:

"No engineer or inspector shall have any power to waive the requirements of the specifications".

Then, on page 9, 105-7, "Pits, quarries and lands, provided by the Department".

A The contractor is given free use of these, and must keep them in proper condition. That information is placed in the tender form when he bids. He knows the material is available, and that we own it, and he makes his bid, accordingly.

Q On page 10, 105-8, "Pits and Quarries on other Crown Lands". I think there is careful protection there also.

(Page 169 follows)

A Oh yes, sir. He has to conform to certain regulations the same as the rest.

Q On page 11, the Gasoline Tax problem.

Page 12, provision for Traffic, Construction and Maintenance of Detours.

A Protection also against negligence and damages.

For instance, a contractor has insurance which protects him when blasting where damage might be done. He is liable for any operation he performs where damage is caused.

MR. JANES: 107-5, "Hindrances and Delays".

BY MR. WREN:

Q 104-7; Can you tell me with what frequency in the past 2 years insurance companies have been called upon to take over a contract for non-fulfilment, or for non-performance?

A I can only tell you from the time I have been in this position, which is 1952-1953.

From my own knowledge of the work, as I recall, probably three or four. There may have been four, but I am not aware of them.

Q Were they for substantial amounts or of a minor nature?

A Some of them were substantial, yes. In one case, I think it was $40,000 or $50,000.

Q You only have knowledge of three or four in the last 2 years?

A Yes.

BY THE CHAIRMAN:

Q On page 15, "Losses and Damages". I think that is worth looking at. It says:

> "All loss or damage arising out of the nature of work to be done, or from the action of the elements or from any unforeseen circumstances in the prosecution of the same, or from any unusual obstructions or difficulties which may be encountered in the prosecution of the work, shall be sustained and borne by the contractor at his own cost and expense, and all material required to replace any defective or rejected work, or to restore any failure shall be at the expense of the contractor."

MR. JANES: 108-1, Mr. Chairman, "Price for Work."

THE CHAIRMAN: Yes.

MR. WREN: On 108-1, Mr. Chairman, would the Chief Engineer tell us if instances are very frequent where he might advise the head of a Department, when he considers a contractor's bid is too low, that he did not think a man could do the job for the price tendered, even though he has to submit a bond?

THE WITNESS: The Chief Engineer and his office have nothing to do with the letting of contracts. He carried out the contracts as bid for by the contractor.

I have not had too much experience, but the hon. Mr. Doucett did discuss the prices with me on two or three occasions.

BY MR. WREN:

Q Where it appeared the tender was too low?

A Yes, that is right. I know on one occasion he asked me about a particular tender. I said I thought it was too low. He said he thought so too, but there was nothing he could do about it, and it was up to us to see that the work was carried out in accordance with the contract.

BY MR. BECKETT; Q.C.:

Q You are protected by your bond?

A Yes.

Q An engineer of some standing and experience; would you say he could make a fair and reasonable estimate of, for example, what it would cost to dig out rock?

A Yes. He could, but he would have to know the conditions very well.

Q I think Mr. Fulton said there were employees who could do that. Would you not look at the hardness of the rock -- consider it, at least?

A Yes.

HON. MR. PORTER: Is that not up to the contractors?

MR. GRUMMETT, Q.C.: No, the contractor is basing his price on the estimate.

MR. JANES: He does not see the estimate.

HON. MR. PORTER: All he sees is the quantity, and if he says, "I can do it for $75 an acre, or at so much per cubic yard," is it not up to him to decide whether he can do it or not?

MR. COLLINGS: If you will look back at 103-1, it says: "The engineer's estimate of quantities as shown in the tender are approximate only .."

HON. MR. PORTER: He might want to get the job, even though, on the face of it, there might be some loss.

THE WITNESS: The contractor may be more efficient on one type of work, and could work rock, for instance, at a lower rate than somebody else, but his earth prices might be higher.

BY MR. WREN:

Q Over the years you were gathering experience, departmental-wise, with the rock of certain areas, and the costs?

A Yes.

HON. MR. PORTER: And some man might come along with some new equipment, who could do it for a lesser price. He might have equipment which has been

written off --

THE CHAIRMAN: The unit price is fixed, and the measurement price governs it?

THE WITNESS: Yes.

BY THE CHAIRMAN:

Q If there is more work, he is paid at the price - the unit price, provided you agree on the dimensions?

A Yes.

HON. MR. PORTER: But the question is, whether the Chief Engineer sees the tender and then says, "I think that tender is so low the man will lose money." You may think that, but he may think he is all right, or for some reason, he may want to get that money. That might happen.

THE WITNESS: It might fit into some other work he is doing in the district.

MR. WREN: If he is getting into difficulty --

MR. JANES: There is the bond.

HON. MR. PORTER: If he can get a bond, the Bonding Company would take the risk.

MR. COLLINGS: Mr. Clarke says the Bonding Company would have to come in and finish the job.

BY HON. MR. PORTER:

Q But you say it is very seldom a Bonding Company has been called in? How many would you

say, at the outside?

A Around four or five.

Q You can only think of four or five cases which have fallen down in the last 2 years?

A Yes.

MR. JANES: There might be conditions which might affect the contract price.

HON. MR. PORTER: Mr. Doucett has interjected here that the four or five contractors mentioned, are the total number who have fallen down in the last 10 years.

MR. JANES: Remarkable.

HON. MR. PORTER: In other words, in 8 years there have been no failures?

MR. GRUMMETT, Q.C.: It is a paying business.

MR. WREN: Then the insurance of contractors in Ontario is a good, safe business.

HON. MR. PORTER: It looks as if that were so.

THE CHAIRMAN: Item 108-3, "Prices and Payments":

"In order to enable the contractor to prosecute the work to advantage, an estimate in writing will be made by the engineer once a month of the amount of work done and material furnished and of the value thereof according to the terms of the contract. The first estimate shall be of the amount of quantity and value of the work done since the contractor commenced the performance of this contract, and every subsequent

"estimate, except the final one, shall be the amount or quantity of the work done since the last preceding estimate was made. No such estimate of amount or quantity shall be required to be made by strict measurement or with exactness, but may be approximate only.

"Upon the approval of said estimate by the chief engineer, the Department will pay to the contractor eighty-five per centum of such estimated value; and when the contract is duly completed in accordance with the terms herein contained, and the work and material is accepted by the chief engineer for the Department, a careful and final detailed statement shall be made of the value of all work done and material furnished under the contract, and, except as hereinelsewhere provided, there shall be paid to the contractor an amount equal to eighty-five per centum thereof, and the balance of the amount ascertained as due under the said contract shall be paid without interest to the contractor within three months, thereafter, provided, however, that it is not considered necessary by the Department to retain a proportion of such payments for protection against claims for labour, material, damages, royalties or otherwise."

So it is right there in the contract.

THE WITNESS: Each month there is a payment certificate which comes in, usually about the 25th of each month.

These are proceeded with each month until the contract is finaled, at which time the final figures come in and are checked by Mr. Fulton's branch. These are perused by Mr. Fulton, but I think he forgot to tell you he does write down here (indicating) the percentage of work - it is not on this copy - which the contractor has completed, as shown by our work reports which come in every week. So that the percentage of work which

is completed, is compared with the money used, so you can tell whether the contract is going along in order or not.

BY MR. WREN:

Q What field checks are made of quantities which are moved?

A Rough estimates are made. It is a progressive estimate. As the cuts are cleaned out, they take rough estimates, and when a final report is made, they take the final measurements.

Q Is there any supervision over the Field Engineer?

A No.

Q You accept his figures as final?

A Yes, sir.

Q In other words, he is the sole arbiter between the contractor and the Department, as to the quantity moved?

A Pretty well.

Q Do you think that is good procedure?

A We have a good deal of faith in the engineering staff. We have no reason to believe otherwise. We have to depend on these men. Certainly, the Head Office staff cannot check it all. At the present time, I believe there has been set up an internal engineering

auditor who will do this work.

Q So there are not even spot checks made? I am speaking of the past.

A No.

Q In other words, if the engineers agree on the quantity, that is final?

A Final until it is checked in Toronto.

Q As long as the field notes are checked?

A Yes.

BY THE CHAIRMAN:

Q But if the quantity is much larger than the figure in the estimate, it is questioned?

A If we find this money is running over. Suppose he has 30% of his work finished, and has used up 90% of his money, then somebody does something about it. They go out and look at it.

Q Somebody from Head Office?

A Yes.

BY MR. COLLINGS:

Q Look at Exhibit 6; how did that contract finish, compared with the estimate?

A The final estimate is $217,565., the original was $194,845.; in other words, it ran over about $20,000.

Q How close would your engineer report it?

A This is our estimate here (indicating).

Q What is the amount?

A $197,000., and they tendered $194,000., so it is very close.

BY THE CHAIRMAN:

Q And it cost $217,000.?

A Yes.

BY MR. WREN:

Q Are most contracts that close?

A I can only tell you from my own experience in the last 2 years during which, as I have told you, I have been here. We have, I would say, fifty percent of our work in 1952-53, where the contracts were within 15% or 20%. Of course, we will have the odd one which will run over.

Q In other words, one half of your contracts are within 15% or 20% of your estimate?

A Yes.

Q What about the others?

A I can tell you only about the ones in 1952, which are final, to date, which total up to about $8 million, and these are within about 10%.

MR. JANES: That is pretty close.

THE WITNESS: We are going to have jobs which will run more than that, of course. I feel the engineers are not infallible, and we will have jobs overrun 50% in some cases, but the over-all picture is good.

BY MR. WREN:

Q You do feel, as Mr. Fulton did, that a margin of error of not more than about 15%, is reasonable?

A Yes, I think so, ordinarily speaking. But you cannot tell what is underneath the crust of the earth, so conditions might change. Many things might happen to change the estimate.

THE CHAIRMAN: From the contractor's standpoint, the determination of the unit price is the main thing with him, because he is safe-guarded when that price is set He gets paid, provided they are proper quantitie

THE WITNESS: Yes.

MR. BECKETT, Q.C.: And the quantities are checked by the engineer.

THE CHAIRMAN: So that any contractor, who knows his business, if he deliberately bid on a unit price, at an uneconomical figure, would run the risk of taking a big loss?

THE WITNESS: He certainly would.

BY THE CHAIRMAN:

Q But as long as the proper measurements are applied, there is no way of getting away from that sort of thing?

A No.

BY MR. WREN:

Q If there were one or two or three which have

been taken over by the bonding company, we might take it their bidding has been good -- right "on the beam".

A That does not mean that some have not lost money.

BY THE CHAIRMAN:

Q A good contractor will not go to a bonding company to make good his loss?

A No.

Q There is sometimes an effort made to bid low enough to secure the contract.

A Yes.

MR. JANES: $8 million, and only 10%, is pretty close work.

THE CHAIRMAN: Item 108-8, "Inspection of Books, Payrolls, Accounts and Records." This gives the Department a very wide field, with the right to take a look of the books during the period of the contract, and I think for a year afterwards.

THE WITNESS: Yes.

BY MR. WREN:

Q There is a question I would like to raise on that point. What right has a member of this Committee - any member of it, - if any, to look at the books of any contractor who has been engaged in construction work in the Province?

THE CHAIRMAN: The Committee has every right to ask that they be brought before it, if it wants them, and it has full power to bring anybody here within the jurisdiction of the Province to produce any records for which we may care to ask.

MR. WREN: What right have we to look at any of the books or records of any of those companies, whose books have been seized?

HON. MR. PORTER: The Committee has the right of subpoenaing anybody as a witness, and to see any person's books. It is for the Committee as a whole to decide. I think no single member has the right. It is a question of the policy of the Committee.

MR. WREN: If the Committee so voted, it could have any of the books which were seized brought before the Committee?

THE CHAIRMAN: We may ask anybody to bring any records, if we wish.

MR. WREN: I did not know what conflict there would be between the courts --

THE CHAIRMAN: Then would come the question of whether we should do it.

HON. MR. PORTER: It is a question of whether we should do it at this time, in regard to certain items. As far as power is concerned, we have the power to do it.

THE CHAIRMAN: Item 5, on Page 9, reads as follows:

(Insert Item 5, Page 9)

There are many items here. You can see from what they have done already it is pretty hard to devise rules, and I would make this observation that when looking over these contracts in great detail, that if the Department insists on the contract being lived up to, the contractor has to live up to it, and he will take the loss, if any.

MR. COLLINGS: To me it looks like a very stiff and binding contract.

THE CHAIRMAN: So much for the contracts. There are a number of rules and regulations, which I think are probably contained in there, and instructions to personnel.

Are there any other questions which any member of the Committee would like to ask Mr. Clarke? I think he has given us the information in a general way.

---The witness retired.

---- Whereupon a short recess was had.

---- Upon resuming.

THE CHAIRMAN: Gentlemen, I intended to mention before we adjourned for lunch that Mr. Peter Wright, Q.C., who was here this morning, wrote me a

letter, which is in my office, but which I have not seen, saying he had been retained to appear on behalf of Hon. Mr. Winters, the Minister of the Federal Department of Public Works, and asked to be allowed to attend our public hearings, which, of course, he is entitled to do.

He also asked if he could have a copy of the evidence made available, and one copy to be forwarded to the Hon. Mr. Winters. I do not imagine there will be any objection to that.

Is there anybody else representing any group, who is present here to-day?

MR. DUNCAN: I have been assisting the Liberal Opposition.

THE CHAIRMAN: I think while we are dealing with exhibits, we will put this book in as an exhibit (indicating). It is a list of advertisements for tenders, for a number of years -- that is, advertisements requesting tenders for contracts.

EXHIBIT NO. 7: Book of Advertising for Tenders for Contracts.

THE CHAIRMAN: Now, with respect to the transcript of the evidence, and the copies required. Each member of the Committee will get a copy. I understand Mr. Oliver would like an extra copy.

MR. WREN: Including our own, we would like four.

THE CHAIRMAN: I think that is a reasonable request.

MR. GRUMMETT, Q.C.: I would like two additional copies.

THE CHAIRMAN: I understand hon. Mr. Doucett woul like a quantity of them.

HON. MR. DOUCETT: I would like a few. Eighteen will be o.k.

THE CHAIRMAN: Mr. Cotnam requests six, the Secretary will require one, Mr. McTavish one, an extra one for Hon. Mr. Porter. Then Mr. Wright, Q.C., has requested one, and that one be sent direct to the Hon. Mr. Winters.

MR. JANES: Why not send the Hon. Mr. Winters a couple, while you are at it?

THE CHAIRMAN: Yes, that may be done.

And I understand there are four being requested for the Press Gallery. If we prepare 60 copies, that will still leave a few, in case later requests come in. Is that agreeable to the Committee.

(Concurred in.)

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C H A R L E S A. R O B B I N S,

Chief Engineer of Maintenance, Department of Highways, being called and duly sworn, testifies as follows:

BY MR. JANES:

Q I am wondering when you came into the Department, Mr. Robbins?

A In 1920.

BY THE CHAIRMAN:

Q You are the Chief Engineer of Maintenance?

A Yes.

Q There was a question raised before luncheon by Mr. Wren --

MR. BECKETT, Q.C.: Does Mr. Robbins wish to make a few general remarks?

HON. MR. DOUCETT: He will make any statement required.

BY MR. WREN:

Q The question I asked before the noon adjournment was as to what proportion of highways construction work was performed by day-labour?

A Well, all maintenance work, barring a few winter contracts, the spraying of pitch, and so on, is done by Departmental forces. We do some minor jobs, such as the erection of fences. Beyond that, we do very little day-labour work.

Q The construction work would be almost negligible?

A Yes.

BY MR. MAPLEDORAM:

Q What about the mechanical work? Is that under "Maintenance"?

A You mean, repair work?

Q That is day work, is it?

A Yes. That is all day work.

BY MR. WREN:

Q Have you any breakdown into constituencies, or divisions, or counties, as to how the day-labour is distributed?

A Here (indicating) is a statement of the appropriations which are made.

EXHIBIT NO. 8: Monthly Report of Expenditures, January 31st, 1954.

BY MR. WREN:

Q That is for the year?

A No, this is a monthly report which is prepared.

In the first column, you will see "A", and in the first line are what we call the "appropriation". That is broken down into a great many headings. The first item is "Division Expenditures" which covers many items of

expenditures of a Division.

The next is, "Accounts Receivable", where we sell something to a municipality, an old truck or something of that kind.

The next is "Bridges".

The next is "Dust Layer, Oil or Calcium".

The next is "Gravel, Contracts, Day Labour". The gravelling is done by day labour.

Then the next is "Re-Surfacing, Contracts, Patching, and Mulch". That is day labour.

Q That is always day labour?

A Yes. The contractors crush the gravel, and we mix it and put it on the roads ourselves. In some of the contracts lately they have been having the contractors do it.

On roads which have existed for some time, we do it ourselves. In some of the heavy-traffic areas, such as Toronto, Hamilton and Port Arthur, we let a certain number of winter-maintenance contracts.

The next column is "Winter Maintenance". That is by our own force.

The next column is "Surface Treatment". That is where we put pitch on the roads.

The next is "Forestry"; that is, planting trees, and caring for trees along the road.

The next is "Equipment", that is in regard to repairs.

The next is "Highway Lighting", which includes traffic lights and other electrified signals.

The next is "Zone Painting", and then we have "Unforseen", which does not amount to very much.

Then we have --

BY THE CHAIRMAN:

Q "97 and 51 were merely advances, and were the "Unforseen"?

A Yes.

This (indicating) is a matter of "bookkeeping" as we call these items, and the first item is "Total Specific Items".

The second column down, marked "E", indicates the expenditures up to that time, against the appropriation. The appropriation in this particular one (indicating) is $279,000, and up to January 31st, we had spent $212,000.

BY MR. WREN:

Q These final figures are "Appropriation" against "Expenditures"?

A That is right. In other words, at the end of January, our Appropriations were $33 million, and our Expenditures to that time had been $23 million.

At the bottom of the sheet there are a number of expenditures which are charged to "Ordinary Expenditures",

casual employees, mostly.

Then there is the "Bridge Office", the "Deputy Minister's Office", the "Engineering Branch".

The next column is "Purchase of New Equipment". That is for the King's Highways, and for Municipal Roads. The item "Repairs", represents some repairs in our local garage here at Head Office.

We have a small set-up for "Experimentation", and then "Forestry Branch", "Fort Henry", "Gas Tax Branch", the "Motor Vehicles Branch", the "Municipal Roads Branch", the "Property Branch", "Soils Laboratory", "Stock", and the "Surveys Branch".

BY MR. GRUMMETT, Q.C.:

Q The first column is the Division where the expenditures occur?

A Yes. These reports are prepared monthly and are watched very closely.

I see in one case the engineer had an over-run of $2,000., for an item of "Oil Dust Layer". An enquiry was made, and in that particular case there was some adjustment.

These reports are watched very closely, and our expenditures are controlled by these sheets.

I have not a sample with me, but we draw up from this sheet (indicating) what we call a "trend chart",

which shows a line, which will be the appropriation and plotted underneath will be the actual expenditures, month by month. That gives us a trend, and we can see if any Division is getting out of line. If so, we immediately make enquiries, and make any necessary adjustments.

BY MR. WREN:

Q You have your own financing officers, or is that done by the Division Office?

A By the Division Office.

Q The local Division in each case?

A No, in Toronto.

BY THE CHAIRMAN:

Q Suppose we consider Division No. 4,-I do not know what it is.

A That is Hamilton.

Q For the purpose of illustration, there were a number of contracts for construction work going on there, and if there appeared to be quite a large increase in the costs, what column would you consider to make it apparent to you?

A These contracts, outside of research, fall into the Construction Branch. The research jobs are administered by the Construction Branch.

Q You have something showing which is a sort of control?

A No; it would not show on this sheet (indicating).

Q There would be nothing on this sheet (indicating) to call your attention to it.

A No.

BY MR. GRUMMETT, Q. C:

Q This is simply a sheet showing "General Maintenance Control"?

A Yes.

BY MR. WREN:

Q You travel about the province yourself?

A Yes, as much as I can. I have three assistants who are on the road most of the time.

Q There has been talk about "irregularities in the construction work": have you discovered any irregularities in the Maintenance Branch,

Is it a reasonable question to ask if it was in your day-labour division where irregularities were first discovered?

A It is a continuous operation, examining for irregularities.

In the last three-year period - I added them up the other day - there were some seventy investigations by my office, mostly all minor, concerning payroll irregularities and drunkenness.

Q Was it in your division that some payrolls were

allegedly padded?

A In where?

Q In the North? Were there any fictious names on your payrolls?

A Yes.

Q They had nothing to do with the construction at all?

A That is right.

Q Have you any idea of what the total amount would be?

THE CHAIRMAN: It is quite in order to ask that question, providing the answer is not likely to affect the employees.

MR. WREN: If there is any chance of that, I will discontinue that line of questioning. I do not want to get into anything affecting controls. I wanted to get it on the record that the Maintenance Department is also involved with alleged irregularities, as well as Construction.

THE WITNESS: We have irregularities; no doubt about that.

BY MR. COLLINGS:

Q But they are quickly discovered?

A I keep an investigator constantly on the road, and have for a long time.

BY MR. WREN:

Q You have had 70 instances?

A Yes.

Q In how long?

A About 3 years. None of them run into any big figures.

Q What might be called "petty chiselling"?

A "Petty chiselling", is what you might call it.

BY THE CHAIRMAN:

Q I think from what you have said, you are constantly in this type of business, and have to be on the look out for irregularities?

A Yes, sir. We have a big staff of men, 4,000 or 5,000, and there is always a percentage who give you trouble.

BY MR. GRUMMETT, Q.C.:

Q And a great number of them are transients?

A Yes.

BY MR. WREN:

Q What control do you have over the stocks of materials in the various Divisions?

A That is not in my sphere.

Q You do not have anything to do with materials? They are supplied to you, and you do this work?

A Yes.

THE CHAIRMAN: Thank you, Mr. Robbins.

--- The Witness retired.

THE CHAIRMAN: I think we have reached the point where we have pretty well been provided with a foundation. Is it agreeable to the Committee that we meet on Monday, the 17th of May?

MR. WREN: Mr. Chairman, I might point out one thing. In this Committee work there may come a time when you want to assemble the Committee earlier, and I want to inform the Committee that my home is at least 2-days' travel, and I need a day or two advance notice, ahead of that.

I would suggest that a notice be sent out a day or two ahead. You can send a wire to me collect, if you wish.

THE CHAIRMAN: The Secretary will keep that in mind, and will, as far as possible, meet the convenience of the members, in an endeavour to avoid any unnecessary inconvenience.

I think the notices go out from the office of Major Lewis, the Clerk of the House, and I am sure the Secretary will also watch that.

MR. COLLINGS: For the benefit of the members coming from the North, is it proposed to sit longer than one day in May?

THE CHAIRMAN: I would think we would have several days sittings. If the report is in front of us, I hope we can give it an exhaustive study during that week.

MR. BECKETT, Q.C.: I move we adjourn.

MR. COLLINGS: I second the motion.

Motion agreed to.

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---- At 5.03 o'clock p.m., the Committee adjourned until Monday, May 17th, 1954, at 10.30 o'clock in the forenoon.

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ONTARIO

# PROCEEDINGS

## of the

## Select Committee of the Ontario Legislature appointed to enquire into matters concerning certain Divisions of the Department of Highways.

MR. A. KELSO ROBERTS, Q.C., CHAIRMAN PRESIDING.

MR. V. J. JOHNSON, SECRETARY.

VOLUME II

Monday, May 17th, 1954.

Toronto, Ontario.

R. C. Sturgeon,
Official Reporter,
Parliament Buildings,
Toronto, Ontario.

S E C O N D  D A Y

Toronto, Ontario,
Monday, May 17th, 1954,
10:30 o'clock, a.m.

- - - - - -

The further proceedings of this Committee reconvened, pursuant to adjournment.

PRESENT:

Mr. A. Kelso Roberts, Q.C., Chairman, Presiding.

Messrs. Hon. Dana Porter, Q.C.,

Mapledoram,

Herbert,

Collings,

Beckett, Q.C.,

Janes,

Dent,

Grummett, Q. C.,

Oliver,

Wren,

Mr. L. R. MacTavish, Q.C., Committee Counsel,

Mr. V. J. Johnson, Secretary.

APPEARANCES:

Hon. G. H. Doucett, Minister of Highways.

Mr. M. A. Elson, Deputy Minister, Department of Highways.

Mr. H. A. Cotnam, F.C.A..(Provincial Auditor).

Mr. G. H. Spence, Deputy Provincial Auditor.

Mr. G. K. Carr, Clarkson,Gordon,Dilworth Co.

Mr. D. C. Scott, Clarkson,Gordon, Dilworth Co.

Mr. W. L. Gordon, )
Mr. Duncan Gordon, ) Representing Messrs.
Mr. L. S. Cummings, ) J. D. Woods & Gordon
Mr. E. H. Orser, ) Ltd.
Mr. R. A. Read, )

Mr. Peter Wright,Q.C., for Hon.Mr.Winters, Minister, Federal Department of Public Works.

Mr. F. R. Duncan, for the Liberal Opposition.

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THE CHAIRMAN: Gentlemen, I will call the meeting to order. I think you will notice there are little cards placed on the tables, with the name of a member on each card. We thought perhaps it would be more convenient if we had things arranged so there would be the minimum of confusion. If anyone has any comment to make, I would be glad to hear it at this time.

MR. OLIVER: I have no comment with respect to the seating arrangements, Mr. Chairman.

THE CHAIRMAN: I think in order to remind the members of the Committee of our proceedings held almost

a month ago, we will have the Secretary read the minutes. However, before that is done, there are two reports to be tabled, one by Mr. Cotnam, the Provincial Auditor, who will table the further interim report, and the report by Messrs. Woods, Gordon Limited, Management Consultants.

---Two reports, one by Mr. Cotnam, and one by Mr. Duncan Gordon, tabled.

THE CHAIRMAN: These reports have now been tabled, and will be dealt with shortly.

I will now ask the Secretary to read the minutes of the last meeting, which was held on April 14th, 1954.

---Minutes of previous meeting read and approved.

THE CHAIRMAN: Are the minutes correct? If so, I will sign them.

Gentlemen, this might be an appropriate time to ascertain if any other interested parties are represented here. Mr. Peter Wright, Q.C., was absent at the afternoon session at our last meeting, when I mentioned he was representing the hon. Federal Minister of Public Works (Mr. Winters).

Are there any other interests who wish to be represented at this moment? If at any time, anybody does come before the Committee in the capacity of a representative of a group, I would appreciate it if

you would let us know, so we can deal with the matter at the time, and know just who is whom before the Committee.

I would like at this time to introduce to you Mr. M. A. Elson, the Deputy Minister of Highways, who was appointed but a short time ago. I will ask him to take a seat at the table here, as a chair has been assigned to him, and we may like to have his views on certain matters as they arise.

Mr. Walter Gordon is here this morning, as well as Mr. Duncan Gordon. I understand Mr. Duncan Gordon will present the report.

MR. WALTER GORDON: Yes, that is so, Mr. Chairman.

THE CHAIRMAN: We have some correspondence, but it is not of any immediate priority value, and I think it might be left for a little later time, as we plan sitting for a few days this week. With the consent of the Committee, we will leave the correspondence until later on.

I propose to ask Mr. Cotnam to present his report at this time. I think he has with him, Mr. Carr, who represents the firm of Clarkson, Gordon, Dilworth and Company, and who has been associated with Mr. Cotnam in his investigations.

We have seats reserved for Mr. Cotnam and Mr. Carr, and the representatives of the Woods,Gordon Co. Ltd., and if they will take their places at the table, it might prove to be more convenient.

For the convenience of the members of the Committee, even when one is reading a report, or if acting as a witness, I would like to have them stand throughout the proceedings. I think that will be more helpful to everybody in the room. We have provided this bay here (indicating) for the witnesses, and by putting a little table there, it will enable the witnesses to stand back a little further, in order that the reporter can get the statements from almost any angle.

We would be glad now to hear from Mr. Cotnam.

HARVEY ALEXANDER COTNAM,

Provincial Auditor, Province of Ontario, being called before the Committee, and being duly sworn, testifies as follows:

BY THE CHAIRMAN:

Q Will you proceed, Mr. Cotnam?

A Mr. Chairman and gentlemen; when last we met, charges had been laid in connection with irregularities in the Highways Department against five

persons. Today we meet, and charges have been laid against fifteen persons, so I think it will be incumbent upon me to be fair to everybody who is charged, and read what I have to say this morning.

I would like to report further to the Committee in connection with the investigation of irregularities in the Department of Highways.

On April 14th, I reported to the Committee on the investigation to that time. A brief summary of the points covered then are now given in order to clarify events which have taken place since that date.

In September, 1953, irregularities on the part of some junior employees in the Fort William Division were discovered and investigated. The investigation resulted in charges being laid against four junior employees of the Division who will stand trial on June 7, 1954. During the investigation, questions were raised as to how the irregularities could have been carried out without the knowledge of more senior employees. The scope of the enquiry was enlarged and intensified. The Division Engineer of the Fort William Division as suspended, later charged and committed for trial at a preliminary hearing in Fort William on Thursday, April 8th, 1954.

Information was obtained which indicated

that there might have been irregularities in the Huntsville Division, and after further investigation, a recommendation was made that the Division Engineer should be suspended, and this was done.

In the meantime, Mr. C. L. Dubin, Q.C., was appointed as special counsel to take charge of any prosecutions which might arise out of the investigation.

On January 20th, 1954, the government appointed J. D. Woods and Gordon Ltd., Management Consultants, to survey the organization and administration of the Department of Highways. Their report will be available to the Committee for study.

In the investigation work carried on, I have had the assistance of Clarkson, Gordon and Co., Chartered Accountants, and in addition, consulting engineers have been engaged to assist me in these studies.

As the investigation progressed and we became familiar with some of the practices followed by which certain contractors had benefited, it appeared possible that some of the contracting firms employed by the Department of Highways might have been parties to a conspiracy to defraud the Government. Search warrants authorizing the seizure of the records

were executed by the Provincial Police on nine contracting firms, and arrangements made for the firm of Clarkson, Gordon and Co., Chartered Accountants, to assist them in the examination of the books and records seized. Other search warrants were obtained and executed by the Provincial Police with respect to individuals whose affairs were under investigation.

The above summary describes the steps taken up to April 14th. Since then, an intensive and detailed examination was made of records bearing on the matters under investigation. This was carried out with diligence and exactitude. Where, as a result of the examination, there was reasonable grounds for believing that a criminal offence had been committed, on advice of the law officers of the Crown, action has been taken, and three of the contracting firms and certain other persons were charged with conspiracy to defraud the Government. I set forth hereunder the charges that were laid, and warrants to apprehend the accused were issued on May 10, 1954.

1. Standard Paving Limited, E. Birdsall, Cecil H. Nelson and R. F. Petursson, unlawfully did in the County of York, and elsewhere in the Province of

Ontario, between the years 1949 and 1953, both inclusive, conspire together and with each other and with one Arthur M. Mills to commit an indictable offence, to wit: by deceit or falsehood or other fraudulent means defraud Her Majesty the Queen, in right of the Province of Ontario, contrary to the provisions of the Criminal Code of Canada.
--place of trial, Toronto, Ontario.

2. Tomlinson Brothers Limited, Tomlinson Brothers (Eastern) Limited, W. S. Tomlinson, C. W. Taylor and Arthur M. Mills, unlawfully did in the District of Thunder Bay, and elsewhere in the Province of Ontario, between the years 1949 and 1953, both inclusive, conspire together and with each other and with one R. F. Petursson to commit an indictable offence, to wit: by deceit or falsehood or other fraudulent means defraud Her Majesty the Queen in right of the Province of Ontario, contrary to the provisions of the Criminal Code of Canada.
--place of trial, Fort William, Ontario.

3. Bergmann Construction Company Limited, Walter Bergmann, John A. West, Donald S. Patterson, William Leonard Bredin and Cecil H. Nelson, unlawfully did in the County of Ontario, and elsewhere in the Province

of Ontario, between the years 1949 and 1953, both inclusive, conspire together and with each other to commit an indictable offence, to wit: by deceit or falsehood or other fraudulent means defraud Her Majesty the Queen in right of the Province of Ontario, contrary to the provisions of the Criminal Code of Canada.

AND FURTHER: Bergmann Construction Company Limited, Walter Bergmann, John A. West, Cecil H. Nelson and Harry Phipps, unlawfully did in the County of Ontario, and elsewhere in the Province of Ontario, between the years 1949 and 1953, both inclusive, conspire together and with each other and with one Arthur M. Mills to commit an indictable offence, to wit: by deceit or falsehood or other fraudulent means defraud Her Majesty the Queen in right of the Province of Ontario, contrary to the provisions of the Criminal Code of Canada.

--place of trial, Whitby, Ontario.

The positions of the persons named in the foregoing charges are as follows:

E. Birdsall, Director, Standard Paving Limited.

Cecil H. Nelson, former Chief Engineer, Department of Highways.

R. F. Petursson, former Inspecting Engineer, Trans-Canada Division, Department of Resources

and Development (now Department of Public Works) Government of Canada.

Arthur M. Mills, former Division Engineer, Fort William Division, Department of Highways.

W. S. Tomlinson, President, Tomlinson Brothers (Eastern) Limited.

C. W. Taylor, Construction Superintendent, Tomlinson Brothers Limited.

Walter Bergmann, President, Bergmann Construction Company Limited.

John A. West, General Manager, Bergmann Construction Company Limited.

Donald S. Patterson, Suspended, Division Engineer, Huntsville Division, Department of Highways.

William Leonard Bredin, Instrumentman, Huntsville Division, Department of Highways.

Harry Phupps, former Construction Engineer, Fort William Division, Department of Highways.

I understand that the individuals concerned, with one exception, have now all appeared before magistrates, and, after the granting of bail, have been remanded to various dates commencing May 18th, 1954.

BY MR. OLIVER:

Q May I ask you one question? I do not want to interrupt too often, but I would like to ask at this point if your examinations have been completed?

A No, my examinations have not been completed.

Q Well, in respect to this particular enquiry?

THE CHAIRMAN: I think perhaps Mr. Cotnam should finish his presentation. I was going to ask

him a few questions along that same line. After he has finished, he may be open to questioning.

BY MR. OLIVER:

Q The investigations carried on thus far have given you grounds --

A Reasonable grounds for believing that irregularities have occurred.

Q That criminal offences have been committed, and then you list the ones against whom charges have been laid. In your judgment, is this (indicating) a complete list of those who should be charged with criminal offences, according to your investigations?

THE CHAIRMAN: I was going to suggest that Mr. Cotnam finish, because he deals with that later on. There may be questions asked, to which you will find he has referred, when he makes his statement.

MR. OLIVER: I do not know how that question could be better placed than right there, when he has finished reading the list of those against whom charges have been laid. It is a perfectly obvious question to ask, whether this is a complete list.

THE CHAIRMAN: If you will look a little further on, you will see certain statements. After he finishes, he might amplify those statements.

MR. OLIVER: Very well.

THE WITNESS:(Continuing): After a careful examination of all the pertinent facts concerning contracts in the several divisions, I am of the opinion that the conclusion which can be drawn therefrom is that irregularities arising out of the fudging of engineering records and data were most frequent in number and largest in size in the Fort William Division.

At this point, I would like to define "fudging", because there may be some confusion about that.

According to the standard Oxford Dictionary, the definition of"fudging" is "To fudge; fit together; patch; make up in a make-shift or dishonest way; cook; fake; practice such methods;".

MR. OLIVER: It sounds like a very descriptive word.

MR. GRUMMETT, Q.C.: It is usually rather "sticky".

THE WITNESS: At this point, I may deviate a little, but I was not aware there would be some question about this.

But in regard to the irregularities -- just what are they? I would say they are two in number -- possibly three. They arise in this way, that in paying for rock and earth in highway construction, they survey

the ground first, and survey it subsequently to the work being done, and the difference between the amount of those two locations, is what we are paying for. If the record of a preliminary survey or an original survey was falsified, naturally you would get a falsified result, and, by the same token, if you survey finally, and falsify your final survey, you also will have a different result than that which you should.

The other means, of course, is in connection with falsifying the weights. Generally they act on survey records, which are the original survey records, and the supporting field notes, and cross-sections, which have been changed to make them appear other than what they were originally.

HON. MR. PORTER: There are cases, I presume, where the first and second surveys show a difference, which might be quite legitimate.

THE WITNESS: The first survey is the yard-stick with which you establish your position. The second survey is the difference between that and the first, and that is what you pay for.

BY MR. OLIVER:

Q It is not a normal practice, as I understand it, to make a survey after the job is completed? Did you find that in your investigations?

A Oh yes, Mr. Oliver.

Q That there was always a survey after the job was completed?

A The system used by the Highways Department is the most efficiently known system, to my knowledge.

Q The most efficient system?

A To determine the quantity of rock and earth moved, that is, to survey it before the work is done and survey it following the completion of the work, and the difference between the two, is what you pay for.

BY MR. WREN:

Q Did you find any instances where the engineering records, profiles and field notes have been destroyed?

A Mr. Wren, that is a question to which I would like to reserve my answer for the moment, until I finish presenting my report.

BY HON. MR. PORTER:

Q I am not just clear on that. You say this is a point --

A Perhaps I could illustrate it in this way. This (indicating) is the ground when the work is started, and this (indicating) is the ground when it is finished, and the difference is what we pay for.

BY THE CHAIRMAN:

Q If both lines are properly established, then

it becomes simply a matter of mathematics.

A Yes.

BY HON. MR. PORTER:

Q The first line is of the ground --

A The first line is of the ground as it was, and the second line is of the ground as it is. But you may have falsifications in both. The ground as it is may not be what it purports to be at all. So you may have a falsification in either the original or the final.

BY THE CHAIRMAN:

Q Mr. Cotnam, you pointed out the two main sources of irregularities, in the surveys, and the adding of quantities which were not actually included, and the weights. Those are the two main irregularities?

A Each one is quite different. The preliminary survey, if it is falsified, ends up with one situation, and if the final survey is falsified, it ends up with an entirely different situation. They are both, in my opinion, wrong practices.

BY MR. OLIVER:

Q From your investigations, would you say there were more falsifications in the initial surveys than in the final surveys?

A That is right, in connection with contracts, in my opinion.

BY THE CHAIRMAN:

Q What do you mean by "initial surveys"?

A The preliminary surveys.

MR. OLIVER: Yes, the preliminary surveys.

BY MR. COLLINGS:

Q The final survey is made after the job is completed?

A That is right.

BY MR. GRUMMETT, Q.C.:

Q Are the initial and final surveys always performed by departmental engineers?

A Oh, yes.

Q In every case?

A Yes.

Q You do not accept a survey made by the contractor's engineer, at any time?

A No. The Department of Highways' employees make all surveys.

BY MR. BECKETT, Q.C.:

Q Do the same engineers make the preliminary survey, as make the final one?

A Before the contract is let, there is a preliminary ground line run by the Surveys Department. When the work is commenced, the instrument man on the job completes that preliminary survey. In other words,

he measures the edges of the road from the centre line, and the new line may change that, to show where the road is really going to go, but he gets his ground, as it was before the work started.

BY HON. MR. PORTER:

Q Is he the same man who makes the final survey?

A Yes.

BY MR. BECKETT, Q.C.:

Q It is not a different person? It is the same person?

A Yes.

BY THE CHAIRMAN:

Q Do I understand you to say, Mr. Cotnam, that there was some evidence of falsification of the preliminary lines?

A Of course, it is the preliminary lines where the best chance of doing the "fudging" occurs, because once the ground disappears, it is pretty hard to reconstruct it. For instance, a mound of earth may have disappeared, and the rock cuts have gone, and to establish exactly what was there is not too easy.

Q Your answer is there has been some evidence of the preliminary lines being falsified?

A Yes.

MR. OLIVER: And the final lines, as well.

THE CHAIRMAN: Oh, yes.

BY THE CHAIRMAN:

Q Mr. Cotnam, just to get that clear, where are these hearings to be held? Where the charges have been laid?

A Yes.

BY MR.WREN:

Q In all cases?

A May I finish my statement, Mr. Wren?

MR. WREN: Of course.

THE WITNESS (Continuing): In the Huntsville Division, there were also irregularities indicated and action has been taken. In some of the other Divisions irregularities have been indicated and although the examination in these cases has been extensive, it would appear from the results of that examination to date that they are of an isolated nature. However, where any irregularities have been indicated and no action has yet been taken they are still under investigation.

In some cases, the Province has withheld payment of certain monies with respect to work alleged to have been performed by some of the contractors under

investigation. This was done only where the investigation disclosed reasonable grounds for believing that the work alleged to have been performed had not in fact been performed and that no monies were actually owing. Consideration is being given by legal counsel to the institution of civil proceedings with respect to these matters. It is expected that a decision will be reached shortly in this connection.

BY THE CHAIRMAN:

Q May I ask you a question on that score? Are there any hold-backs at the moment in the case of contracts which you are satisfied are clear, other than in the normal course of business?

A Well, there are hold-backs throughout many of the contracts, but I am not in a position to say as to the reason why all the hold-backs are being held, because -- let me put it this way; the Department of Highways holds the final monies from contractors until they are completely satisfied the job is as it should be, that it has been properly "trimmed" -- I think that is the word -- and in many cases, there are small totals which have not been detailed to me, so I cannot answer that question precisely.

Q From your knowledge, are there any hold-backs

being held at the present time from any contracts which appear, as far as your investigation goes, to be completely clear?

A I think there are none.

BY MR. OLIVER:

Q Are there any contracts in Fort William which you would say are completely clear?

A Mr. Oliver, I can only say that we are endeavouring to clear up all the matters in the Fort William Division.

Q But, at the moment, there are no contracts which you would say are "in the clear", and not subject to further examination, in respect to suggested irregularities? There are no contracts "in the clear" at the moment?

A I do not anticipate we are going to spend a great deal more time on the Fort William Division. I think we have the Fort William Division pretty well completed, although we have some engineering data of performance, some records, some re-surveying, and some measurements to make. Until they are completed, I cannot really properly answer that question.

BY THE CHAIRMAN:

Q Perhaps it would be fair to put it this way; in the main, your investigations into the Fort William

Division, have resulted in these prosecutions, and are nearing completion?

A I think I can say within broad limits.

(Continuing): As to the future course of the investigation, I may say that the work is by no means over, and a substantial amount of follow-up work remains to be done. The review of the larger contracts for the years 1948 to 1952 inclusive, is almost complete from an accounting point of view, but the engineering side of the work is still unfinished. The work of re-measuring is, of necessity, a very time consuming operation.

Although I am concentrating my efforts on the investigation side, I feel that it is even more important that a system be instituted which will permit the Department of Highways to proceed with highway work on a sound basis. I understand that the report of J. D. Woods and Gordon, Limited, will make recommendations in this connection.

A schedule and summary is here presented showing an analysis of the 1950 construction contracts for Grading, Surfacing, Paving, Bridges, etcetera, as at April 28, 1954.

The reason we chose the year 1950 was because it is a representative year in that period,

and I think that illustrates --

BY MR. WREN:

Q Do you suggest we will be proceeding with the highway work on an unsound basis? Do you mean there are unsound practices going on?

A Not necessarily.

BY THE CHAIRMAN:

Q If you are in a position to give an answer to this question, I would be glad to have it, but if not, it will be alright.

I think Mr. Wren asked a question to this effect; are there any other prosecutions contemplated in the Fort William area other than those which have been commenced?

A We have taken action where we had reasonable grounds to believe irregularities had been committed.

Q Then subsequent actions may be taken if subsequent investigations reveal further irregularities?

A I have indicated the work is not complete. There is a great deal of follow-up work yet to be done. I think, however, we have made real progress.

Q You are not in a position to say the book is closed?

A No. As I say, I believe within broad limits, the work is well on its way.

BY MR. WREN:

Q To get back to one of my other questions; is there any of your checking which may be delayed due to the fact that records have been destroyed? Have you found any evidence of records being destroyed -- those which are pertinent to this investigation?

A Persons have told us that they have destroyed records.

Q That they have destroyed records?

A Yes.

Q So it is impossible to check that work?

A I would not say it is "impossible", but it is most difficult.

BY THE CHAIRMAN:

Q Are those particular contractors involved in the criminal proceedings now before the courts?

A Yes, they are.

Q None outside?

A Not to my knowledge.

BY MR. OLIVER:

Q May I ask one question, just to clear that up? You say that, to your knowledge, there were no records of any firm other than those presently charged which were destroyed, or alleged to be destroyed?

A No, I did not say that. Or, if I did, I

did not mean it that way. I would like to correct that situation. We have proceeded in a criminal way where we have reasonable grounds for believing we were entitled to charge those persons. If we have not evidence sufficient to do that, in the opinion of the Law Officers of the Crown, then we do not think we should take that action until we have sufficient evidence, or reasonable grounds for belief.

We may have some evidence, but if it is not adequate, in the opinion of the Law Officers of the Crown, you just cannot be frivolous about making these charges.

Q Was the evidence inadequate in some cases, because the records have been destroyed?

A If the records had been available, we would have looked at them, and been able to determine, but until we can see them, I cannot answer your question.

Q What responsibility is there for employees of the Crown to retain the records?

A It has been customary for these records to be retained indefinitely.

Q But suddenly, since this investigation started, some have been destroyed, or for some reason are not available?

A I would think that could be said.

Q Would there not be an action against the Crown officers for failure to retain possession? Is it not important to the Government that they be retained?

A It certainly is very desirable for the Government to retain them.

BY MR. OLIVER:

Q Would it be an offence to destroy them?

A It would appear -- I do not know whether I could properly answer that question or not. It certainly is not the thing to do, but if he is instructed to destroy them --

BY MR. WREN:

Q That is the question I was going to ask. Did you find instances where subordinate officers were instructed to destroy records, and if so, by whom?

A It is very difficult to get the real answer to that question, of course.

BY MR. GRUMMETT, Q.C.:

Q Should not a subordinate officer become suspicious if he received instructions to destroy important documents?

A I think he would also become suspicious if he were asked to change a record.

BY MR. WREN:

Q Would he not ask from the one from whom he received his instructions for a written order to that effect?

A I do not think there are any written orders. I really have not seen any written orders.

Q Well, records have been destroyed, on instructions.

A That is our information.

Q So there will be no confusion as to the dividing line, there are cases now before the courts where that has been the situation? Are there any situations not before the courts at the moment where that situation appears?

A I can only refer to the paragraph in my report, and I would like to read it again. It says:

> "However, where any irregularities have been indicated and no action has yet been taken, they are still under investigation."

THE CHAIRMAN: I would say at this stage if there is anybody who is known to have destroyed records, and who is not before the court, he will come before the Committee. I do not think anybody on

this Committee would want to have a situation continuing where there is destruction of records, and any person destroying them, who has not been before a court, will appear before this Committee.

BY MR. WREN:

Q For example, in another Division, in the construction of the Red Lake Highway, do you know whether or not all the profiles and engineering data and so on, is available for the construction of -- I forget the number of the highway. It runs from Vermilion to Red Lake.

A We have been pursuing this investigation.

Q You do not want to jeopardize your investigation?

A We have three contracting firms and fifteen persons under charges, and you can see the difficulty of my coming before this Committee at this time without jeopardizing the fair trial of these people. I do want to come forward and tell you, and I want to say that I will be as hard as truth and as uncompromising as justice. I will not equivocate; I will not excuse; I will not retreat a single inch; and I will be heard.

Q You want your examination to continue for a little time yet?

A Yes.

BY MR. OLIVER:

Q I think this question is pertinent. In your judgment, more time is necessary, before you can report fully to the Committee?

A I would like to report to the Committee as soon as this information is made available to me, and I will transmit it to you.

The trials in Fort William are coming up on the 7th of June, and I would hope that immediately they are over, I could give you a further interim report in connection with this matter. I want this Committee to have all the information I can give it.

BY MR. WREN:

Q So much emphasis is placed on Fort William in all these reports. The words "Fort William" come up constantly. Yet it appears from what you have read now that this thing is not confined to Fort William? In other words, the people around Fort William are not the only "bad apples" in the supposed barrel.

A Mr. Wren, I will again refer you to my report. I say this:

"After a careful examination of all the pertinent facts concerning contracts in the several

division , I am of the opinion that the conclusion which can be drawn therefrom is that irregularities arising out of the fudging of engineering records and data were most frequent in number and largest in size in the Fort William Division."

BY MR. GRUMMETT, Q.C.:

Q Mr. Cotnam, you have explained the meaning of "fudging". I have seen references made in the Press to "boosting". What is "boosting"?

A I think it is the result of "fudging".

Q That is what I thought.

A Yes.

Q Is there any truth in the statement in the Press that those guilty of "boosting" are not to be prosecuted?

A I think the situation is this, Mr. Grummett: You have to take a broad view of this and have a largeness of mind in the matter. We do not think -- at least, I do not think -- it is desirable to persecute our junior employees. They may have been instructed to do certain things, and I do not think it is the wish of this Committee that all these junior people -- and there are many of them who may have done things which they ought not to have done --

Q But the wrongdoing of the seniors and the wrongdoing of the contractors, have been facilitated by the juniors?

A Yes, that is true. That is true. That has been the case. But the juniors could not have done it by themselves. Put it that way.

Q No, that is right. Their co-operation was necessary to make it easier for the contractors and the engineers to "pull off" what they did.

A That is right.

BY MR. WREN:

Q You would agree then that the area of misbehaviour was created for them by somebody above?

A I would prefer to answer that question after some of these cases are over.

BY MR. OLIVER:

Q But you hold very strong views on that situation?

A I expect to be able to expand on that at some future date.

THE CHAIRMAN: The charges pretty well speak for themselves.

MR. OLIVER: Not being a lawyer, I cannot say.

MR. GRUMMETT, Q.C.: We do not know how

far the charges go, nor what grounds they cover.

THE CHAIRMAN: I think Mr. Cotnam is quite right in saying that until the trials are over --

MR. WREN: I am not a lawyer, and am not familiar with these things. How long can these trials be postponed?

THE CHAIRMAN: I think the hon. Attorney-General made a very excellent suggestion in regard to expediting these trials, when he arranged for special sittings of the Supreme Court to deal with one, but counsel for the defence was not ready to go on, and the man has been charged with some other offence, so they are all now before the courts. After all, a man preparing his defence, which may involve the loss of personal freedom, should not be jeopardized because someone may be anxious to get the evidence. We must allow ample time for the wheels of justice to do the job.

MR. WREN: How long can these postponements go on?

HON. MR. PORTER: That depends on circumstances. There is no definite rule about it. As far as we can foresee, unless other charges are laid, they should be all tried in September.

MR. OLIVER: Then there can be appeals from

that.

HON. MR. PORTER: Yes, but once the evidence is in, I am not so sure --

MR. GRUMMETT, Q.C.: There is no guarantee they may not ask for further remands.

HON. MR. PORTER: No guarantee of anything. As the Chairman said, I had arranged for a special Assizes to sit in Fort William on June 3rd to hear the case against Mills. Subsequently, these other charges were laid, in which Mills was accused, with others, and Mills, through his counsel, pressed very hard for a remand, to carry his other cases on to September.

I would think in view of the fact that we have given him the opportunity for a speedy trial, if he wanted it, -- and after all, speeding the matter is really something which is in the interest of the accused more than anybody else -- if he was the one who wanted a delay, I do not think it would be fair for the Crown to press for the trial at a special Assizes, which would not be held in the ordinary course at all. But he will be entitled to go before the ordinary Assizes to be held in ordinary course, next September.

That is the situation with regard to the attempts which have been made to bring about a speedy

trial, as far as possible, and yet be fair.

MR. OLIVER: As far as we are concerned, we want to be quite fair to the accused.

HON. MR. PORTER: I appreciate that.

MR. OLIVER: I think that is inherent in all of us. I would rather prejudice the Crown's case, rather than that of the accused, if it was necessary to do one or the other.

BY THE CHAIRMAN:

Q There are some schedules attached to your report?

A Yes.

Q On the next page, I understand there is a summary of the 1950 contracts?

A There were 212 of these contracts let in 1950, and we have endeavoured to give some comparisons of the actual amount of the contracts, and the additional costs, and so forth, which may be the result of many things.

Q I think you should make that clear, because a person could look at the figures, and jump at some very erroneous conclusions. There could be many incidents which would be necessary to understand to arrive at a proper understanding of the figures. Do you want to make some comment along those lines?

A I would only say this about the 1950 contracts and the summary of them: that is a factual record. I think it would bear studying. I would not want anybody to leave this room with the impression that I am trying to point out anything there which is sinister. I am certain the Department officials could give much better explanations as to why some of these over-runs occurred, than I can. There are many reasons why a contract might be 100 percent. over-run, --

BY MR. WREN:

Q I would think that 200 percent. or 300 percent. is too high.

A I only want to say that I do not want to leave the impression that an over-run in itself is anything sinister. You can have just as much difficulty if there is no over-run at all, if you do not have good faith in these matters.

Q You made some mention about civil cases. Are you referring to this $15 million, or any part of it?

A No. If you charge a person with a criminal offence, and he owes you money, you are not precluded from taking action in a civil court.

BY MR. JANES:

Q The contracts you described a few moments ago,

where a survey was made of the original ground, and when the contract was finished; there would not necessarily be any over-run in those contracts at all? The surveys would be run, and there would not necessarily be any over-run.

A No, not necessarily. There might have been no wrongdoing on the part of anybody.

BY HON. MR. PORTER:

Q The over-runs occur ultimately in this way, do they not? In the original estimate which might provide for 10,000 cubic yards of earth to be moved at so much per cubic yard,— supposing that is the first estimate: when the work is actually commenced, it is found that more than 10,000 yards had to be moved to build the road across, because of the lay of the land, but it had to be built. These two figures could vary substantially in many cases, especially in the rough terrain, such as northern Ontario? Is that not true?

A Very true.

Q So whether or not there is a 100 percent. over-run, as you call it -- or 200 percent. over-run -- it may b the natural thing to expect in some circumstances.

A I would say this, further, that many of the over-runs I think occur by reason of changes of grade

after the contract has been let. For one reason or another, the soil branch comes along and have not completed their work, so they make the soil tests, which requires the Department to change the grade. Or they may change the direction of the highway itself which would require different specifications --

BY MR. OLIVER:

Q Are the standards prescribed by and for the Trans-Canada, not much in excess of the standards we provide for provincial highways?

A I would say "yes". I am not an engineer, but I am given to understand there would be excess specifications,there, for instance, as to the width of the highway.

Q I thought our specifications were so high that perhaps the Trans-Canada would be under them.

A If that is so, I would think it could go up to, say, 30 percent. I could be wrong about that, -- very wrong. But I believe it would be up to that.

BY MR. WREN:

Q Have you made a very extensive study of these 1950 sheets? Would it be your advice that the pre-engineering was properly done in this case, that the preliminary surveys were properly made, or just

"horseback surveys" in some cases?

A I think there are people in the Department who could answer that question.

Q Would you not check that, as the Auditor, and ask the engineering people whether or not the pre-engineering was adequate?

A The answer is this: you have to be practical about this. The ideal thing is to have all the work done before you start on the job. But through the pressure of time and lack of staff, these jobs get started, because people are anxious to get a highway, and the work is commenced without the engineering being complete.

I believe in some of the divisions, they will not have the work done within a year, all the survey work. That could be done, but it would hold back the highway work.

Q When the Hydro Commission builds a road, their engineering is complete. It is right up to the minute, before a tender is called.

A I would say it is desirable, but whether it is practical or not, is another thing.

Q The development of Hydro is just as pressing as highways, yet they find time to do it.

BY MR. OLIVER:

Q This $15 million excess; how many years does

that cover?

A Of course, that relates to the 1950 contracts.

Q To one year?

A Yes. The work will be done --

BY THE CHAIRMAN:

Q The contracts let in 1950?

A Yes.

BY HON. MR. PORTER:

Q They were taken as an example?

A Yes.

BY MR. GRUMMETT, Q.C.:

Q These, of course, would be carried on in 1951 and 1952, taking the contracts as they were let in 1950, and as they exist today?

A Yes.

BY HON. MR. PORTER:

Q It is the story of the 1950 contracts, and what work has been done on them since?

A Yes.

BY MR. WREN:

Q There might be a small difference for contracts let in 1951, 1952, and 1953?

A Until I make a complete analysis, I cannot say.

BY HON. MR. PORTER:

Q I suppose the work on these subsequent

contracts is not completed, in many cases?

A No, I do not think we could get a good record of 1951 or 1952, certainly not for 1953.

BY MR. OLIVER:

Q The 1951 contracts would be complete now?

A I am sorry, but that is not the situation.

BY THE CHAIRMAN:

Q You could give a summary for 1951?

BY MR. BECKETT, Q.C.:

Q All the work under these contracts has been finished?

A No, I would say some of these contracts are not finalized as yet.

MR. OLIVER: Then it might be more than the $15 million.

MR. COLLINGS: There could not be much more, because the hold-backs only amount to 300 and some odd thousand dollars.

MR. OLIVER: That could put it over the $16 million mark.

BY MR. GRUMMETT, Q.C.:

Q Mr. Cotnam, may I clear up one point? The 40 contracts which were listed with the contracts made, show an excess over-payment of $372,830.54. Should that not be a minus item?

A This indicates how it was created, Mr. Grummett. It is the reverse of the other figures, really.

Q What I want to know is, is the $15 million --

A It is the net figure.

Q Is it the total of the remainder?

A No.

THE CHAIRMAN: Gentlemen, I think it is important, if we all want to analyze this on a fair basis, to know how this will be made up, and Mr. Millar will be with us at some stage during this week. I do not think we can possibly press it without knowing how these things are done. Everybody knows that estimates and final costs in industry are very often different, and I do not think we should prejudge these figures. I think Mr. Cotnam has given us a good summary of the contracts let in 1950.

BY MR. OLIVER:

Q May I ask one question in respect to this $15 million excess? Have your investigations led you to believe that any portion of this $15 million might be recoverable?

A That will depend on what the Law Officers of the Crown advise, as regards civil actions, Mr. Oliver.

BY MR. WREN:

Q Are you prepared to recommend that sum be

recovered?

A Where we have taken criminal action?

BY HON. MR. PORTER:

Q That would include the amount involved in some of the charges which have been laid?

A That is right.

Q But the amount involved in those charges is only a very small percentage of the total?

A Yes.

BY MR. JANES:

Q Is it not true that the Government supplies the material in all these instances? Is it not possible for the cost of material to increase some of this amount mentioned as the "excess"?

A No. We supply the materials independently, and they do not enter into these figures.

BY HON. MR. PORTER:

Q They are merely the figures of the amounts paid to the creditors?

A Yes.

BY MR. OLIVER:

Q Following up the question by the hon. Attorney-General, I can understand that some of this $15 million is attached to, and revolves around the charges already laid? Would you say, Mr. Cotnam,

that outside of that amount, as it relates to the charges presently laid, there is another amount in the remaining portion of the $15 million which is or should be recoverable?

A I would say this, Mr. Oliver, that when this investigation is finished, if it will enable us to proceed civilly against some of these people, where we feel money is owing, I believe that should be done. How much or how little that is, I cannot say at the moment.

Q You cannot say at the moment how much is or should be recoverable?

A No, I would not like to say that at the moment.

BY MR. WREN:

Q Did you find out the firms which were not charge with unauthorized extra work, or where the authorization was a bit dubious?

A I would think what will happen will be this; the contractors will claim they are entitled to more money than we paid them, in many instances.

BY MR. OLIVER:

Q Do these 1950 contracts here include the Atikokan roads?

A Where the 1950 contracts were let for the

Atikokan roads, they will, yes.

BY MR. WREN:

Q There are some pretty wide differences there in that project.

A Yes, I think there were.

BY HON.MR. PORTER:

Q Mr. Cotnam, could you give us any idea as to the total amount of money which is involved in the over-payments, resulting from the alleged specifications with which we are concerned in these charges, which have been actually laid?

A I am sorry, I cannot do that, by reason of the fact that the re-measuring is not at a point where that can be done.

Q Not even in a case where charges have been laid?

A No, not fully.

BY MR. WREN:

Q You just laid sufficient charges --

BY HON. MR. PORTER:

Q As far as criminal proceedings are concerned, it does not matter whether it is a large sum or a small sum, as long as you can prove a conspiracy. That is all.

But I was wondering if you could give any

estimate of the amount involved in these particular charges -- roughly?

A I am not yet able to do that.

Q Or as known up to the present time?

A I am sorry, but I have not made any compilation of that.

BY THE CHAIRMAN:

Q Will you look at Item 50-221 on the last page. That is before the courts, and I do not want to ask you too many questions about it, but it is possible the evidence already presented to the court, as compared with the increase --

A It seems to me, Mr. Chairman, if my memory serves me right, that that contract was in question at the court proceedings in Fort William.

Q I happen to know the figure mentioned in that proceeding; could you give us that increase in percentage? If you are worried about it, do not bother about it now.

MR. OLIVER: It might not be a complete figure.

THE CHAIRMAN: It might not be. You cannot just take these figures and say that any substantial part is not thoroughly justified.

MR. OLIVER: I do not think we should take

the figures, unless they are complete figures.

BY THE CHAIRMAN:

Q You can use your own judgment as to whether you answer my question or not.

A I would hate to quote figures now.

BY MR. COLLINGS:

Q Mr. Cotnam, you will certainly say that part of that $15 million is legitimate?

A I would say without hesitation that the greater part of it is legitimate.

Q You are not saying that the whole $15 million is fraud?

A By no means.

THE CHAIRMAN: I would like to make it very clear, because, while Mr. Millar has not given an explanation, it would be very unfair for the Press to give out the impression that this figure of $15 million means anything at all, until a full explanation is given. I want to make that very emphatic at this point.

---The witness retired.

THE CHAIRMAN: We will now ask Mr. Duncan Gordon to present the report of his Company.

As you will see, gentlemen, this is a long report, and it seems to me we will get the most out of

it if we permit Mr. Gordon to read the report, together with any comments he may wish to make as he goes along.

MR. COLLINGS: Could we take the first section before luncheon?

MR. OLIVER: I would like to have this cleared up, Mr. Chairman. Mr. Gordon will read the report, and then it is understood that he will be available to the Committee for examination on his report. That will eliminate the necessity for asking questions as we go along.

THE CHAIRMAN: I think Mr. Gordon, or some member of his Firm who is familiar with this matter, should be with us throughout all our hearings.

MR. OLIVER: I think that is a good idea.

(Page 243 follows)

D U N C A N  L O C K H A R T  G O R D O N,

of the firm of J. D. Woods & Gordon Limited, being called and duly sworn, testifies as follows:

BY THE CHAIRMAN:

Q Mr. Gordon, will you proceed?

A Mr. Chairman I will dispense with reading the summary and the index, and start in on page 1.

Q You might explain what the summary is.

A A summary of the particular recommendations contained throughout the report, and as I will be covering these in detail, it will save a little time by not reading them now.

In the front of the report, there is a summary of the recommendations, comprising three or four pages. Then there is an index of two pages, and then the main report commences.

BY MR. COLLINGS:

Q You want to start at the main report, and come back to the particular recommendations later on?

A Yes. We cover them all in the report, as we go along.

BY THE CHAIRMAN:

Q Will you proceed then, Mr. Gordon, to read your report. I hope we are not asking too much of you, nor putting you at too much of a disadvantage by

asking you to stand, but I believe that will make it easier for everybody in the room.

A Verywell, Mr. Chairman.

The Honourable George H. Doucett,
Minister of Highways, Ontario,
Parliament Buildings, May 14, 1954.
Toronto 5, Ontario.

Dear Sir: Department of Highways

In accordance with instructions dated January 20, 1954 we have reviewed the organization structure and administrative policies and practices of the Department of Highways including those of the Fort William Division and submit herewith our comments thereon and recommendations. In doing so we wish to point out that this report does not deal with the investigation of alleged irregularities in the Fort William Division and elsewhere which is being conducted by Mr. Harvey A. Cotnam, F.C.A., Provincial Auditor, with assistance from Messrs. Clarkson, Gordon & Co., Chartered Accountants. We have worked closely with Mr. Cotnam and understand it is his intention in due course to prepare a full report upon the matters disclosed by his investigation.

In the course of our examination we have reviewed the present organization structure of the Department and have discussed its operating policies and practices with the officials at Head Office and at each

of the eighteen Divisions throughout Ontario. In addition, we have visited the officials responsible for the construction and maintenance of highways in the Provinces of Manitoba and Alberta and in the State of Michigan, all of whom were most helpful.

This report is divided into three principal sections as follows:

I Responsibilities and growth

II Administrative policies and practices

III Form of organization proposed.

BY THE CHAIRMAN:

Q Mr. Gordon, would you give the Committee the approximate number of people with whom you have spoken in the course of your investigations?

A At a very rough guess, I would say it was 150 or 200; somewhere in that neighbourhood.

Q A large number of people?

A Yes.

BY MR. OLIVER:

Q May I ask one question? If Mr. Gordon says it will be dealt with later, I will accept that.

This report does not deal with the investigation of the alleged irregularities in Fort William and elsewhere as conducted by Mr. Cotnam?

A No.

Q Where was the line of demarcation between your investigation and that of Mr. Cotnam?

A This report deals with organization, administrative practices and policies. Matters leading up to criminal charges have been conducted by Mr. Cotnam. We may have over-lapped, in that there may be certain practices which have been irregular, in which case, we will deal with them as practices. When we get down to specific firms, we have not deal with them in this report.

I RESPONSIBILITIES AND GROWTH:

The development of modern highways in Ontario originated with the recommendations contained in the report of the Public Roads and Highways Commission, 1914. These recommendations let in 1915 to the establishment of a Department of Public Highways under the Minister of Public Works and Highways; shortly thereafter the Minister was authorized to take over any highway as a provincial highway and to carry out such construction, alterations or repairs as he considered necessary. In 1929 the responsibility for public works and highways was divided and a second minister appointed with full responsibility for the Department of Highways. In 1936 the Department of Highways took over the roads in the northern part of the Province which up to that time had been the responsibility

of the Department of Northern Development.

The Department is responsible for the construction and maintenance of what are known as the King's Highways and other roads known as Secondary Roads. In 1953 this highway system comprised some 7,800 miles of King's Highways, the most heavily travelled roads throughout the Province, and 2,700 miles of Secondary Roads. The system is being continually improved and expanded to carry an ever-increasing volume of traffic. The Department must plan and supervise the construction of such major projects as new four-lane highways as well as changes to existing roads to eliminate hazards and improve the flow of traffic. The maintenance of the highways includes keeping the surface of the roads in repair, upkeep of the right of way, marking the highways for direction and safety, snow removal and sanding or salting the roads during the winter months.

The Highway Improvement Act provides that the Provincial Government may make grants to counties, townships and other municipalities towards the cost of construction and maintenance of roads coming under their jurisdiction. In 1953 these subsidies and expenditures in unincorporated municipalities and on development roads totalled almost $30,000,000. Engineers from the Department of Highways examine the plans and annual budgets for

road improvement developed by the counties, townships and other municipalities and make recommendations as to their approval. They are responsible for ensuring that the work approved is satisfactorily carried out. Expenditures are audited by the Departmental staff.

The administration of the Highway Traffic Act, the Public Commercial Vehicles Act and The Public Vehicles Act is the responsibility of the Minister of Highways and is carried out by the Registrar of Motor Vehicles. The Motor Vehicles Branch is responsible for developing traffic regulations applicable to the whole Province and for approving all municipal traffic by-laws to avoid variations throughout the Province. It is also responsible for testing drivers; accident prevention work; the issue and recording of drivers' licences; the licensing and registration of motor vehicles including those licensed as public transportation vehicles; and the administration and enforcement of court orders in connection with the Highway Traffic Act. In 1953 the Branch processed more than 3,500,000 applications for drivers' licences and motor vehicle permits. This is a big task as the recording of the licences and permits must be kept up to date and available at all times for immediate reference as part of the law enforcement machinery of the Province.

The Chief Inspector Gasoline Tax and the personnel

in his Branch are responsible for the collection of gasoline taxes and for the issue of permits for gasoline handling. This Branch collected $77,698,000 from these sources during the fiscal year ending March 31, 1953. The processing of gasoline tax refund claims, where the gasoline has been used for some non-taxable purpose such as farm machinery, constitutes an important part of the work of this Branch. The Branch employs a staff of auditors checking the records of the oil companies and gasoline wholesalers to verify their gasoline tax remittences. The tax payments are received by this Branch and turned over for deposit to the Chief Cashier of the Treasury Department.

MR. MacTAVISH, Q.C.: On page 2, in the third paragraph the fourth line, I see the words "unincorporated municipalities". Should that not be "incorporated municipalities"?

MR. GRUMMETT, Q.C.: It must be "incorporated municipalities".

THE WITNESS: I may not be quite correct in my terminology. What I was thinking of there were the expenditures, and I have always thought of them as "unincorporated municipalities".

What I meant was that in 1953, these subsidies and expenditures which were paid to municipalities, and on development roads in unorganized territory, totalled almost $30 million.

THE WITNESS: Yes.

BY MR. MacTAVISH, Q.C.:

Q Does that not cover all municipalities in Ontario?

A No, but subsidies ordinarily go to the municipalities, and, in addition to that, they go to unorganized municipalities, and undeveloped roads.

MR. MacTAVISH, Q.C.: The word "unorganized" probably would be better.

BY MR. BECKETT, Q.C.:

Q Is that the total amount of unorganized as well as organized?

A It includes grants for counties, townships and other municipalities, unorganized territory, and development roads.

Q Everything?

A Yes, everything.

THE WITNESS: I will go on, Mr. Chairman.

Growth of the Department

The work of the Department increased fairly steadily from 1920 until the end of World War II. The expansion since 1945 has been at a much faster rate. This trend is illustrated by the number of licences issued for motor vehicles in Ontario. In 1920 there were 178,000 licensed vehicles. The number increased to

562,000 by 1930, fell off slightly during the next few years and then increased to 739,000 in 1941. During the war years the number of registrations dropped to a low of 663,000 in 1945. Since then the annual increase in registrations has far exceeded any other period and by 1953 a total of 1,406,000 vehicles were registered in the Province, an increase of more than 100% in the eight-year period.

The rapid increase in the number of motor vehicles registered in the Province has parallelled what has happened in other parts of Canada and in the United States. The number of cars registered in other jurisdictions which use the highways of Ontario has increased proportionately. The increased number of vehicles and of drivers has resulted in a continual demand for new highways and for improvements to existing highways. In addition it has been necessary for the Department to catch upon the backlog of maintenance and resurfacing work which was postponed during the war years in order to conserve materials and man-power.

The Department has increased its expenditures for new construction and maintenance over the years to keep pace with the increased number of vehicles. In 1920 the total expenditures of the Province on roads which are now the responsibility of the Department were less than

$10,000,000. During the next ten years expenditures varied considerably, reaching a high point of nearly $26,000,000 in 1930. Expenditures were lower during the next three years but were increased to $38,000,000 in 1934, partly as a means of relieving unemployment. Just prior to the war, expenditures had reached a level in excess of $42,000,000 a year. Expenditures were reduced during the war years when the work of the Department was restricted to essential maintenance and rebuilding. Expenditures were increased to $46,000,000 in 1947 and have increased substantially in each subsequent year reaching $150,000,000 in 1953.

This unprecedented demand for increased services caught the Department at a time when its staff was least prepared to meet it. Many of those holding senior positions joined the Department when it was first formed or shortly after World War I and are now close to the age of retirement. The staff was gradually increased during the nineteen-twenties but very few people were added during the nineteen-thirties. It was impossible to obtain staff during the war years and since then the Department has had to compete with industry under boom-time conditions. The output of trained engineers has not been sufficient to meet all demands and as a consequence the Department has been understaffed. Furthermore, there has been a considerable

turnover in the staff and many of them are relatively inexperienced in the work of the Department. In this connection it is significant that of the 228 professional engineers now on the staff (of whom 183 are University graduates) only 110 or slightly less than one-half have been with the Department for more than five years.

The tremendous increase in the demand for roads and highways since the war, the great expansion which has taken place in the work of the Department, and the problem of obtaining a sufficient staff have all contributed to the difficulties of the Department.

The Road Building Industry

At the end of the war the demand for road building equipment by the armed forces in this country and in the United States declined, and construction companies found that equipment which had been on order for a long time suddenly became available. After the immediate requirements of the construction companies were filled, there was a surplus of equipment which was increased by the availability of second-hand equipment disposed of by the armed forces, and from such war-time projects as the Alaska Highway.

Before the war, construction equipment purchased on credit required a down-payment of at least one-third with the balance payable over a period of ten months to

one year. Sales of equipment on credit practically ceased during the war years. In the post-war period terms have gradually become more liberal. Today it is not unusual for equipment to be sold with a down-payment of 10% and the balance payable over eighteen to twenty-four working months which in practice means over a period of two to three years.

These credit terms have made it possible for some small firms with limited financial resources to acquire the necessary equipment to bid on major jobs. It has also meant that these firms had to obtain work in order to keep their equipment in use and to meet the payments thereon when they became due. As a result, competition has been extremely keen and, in many instances, bids have been made at such low prices that the contractor would not have been able to complete the work if the terms of the contract had been strictly enforced.

This does not mean that new construction firms should not be encouraged if they are adequately financed. In fact a number of new construction companies have been formed in recent years, not only because of the ease with which equipment can be obtained and paid for, but primarily because of the expansion in road building activity throughout the Province. Some of these new firms, while not very large, are sometimes in a position to undertake small jobs at lower prices than the larger companies. Obviously this is a healthy situation and should not be discouraged.

(Page 256 follows)

## II ADMINISTRATIVE POLICIES AND PRACTICES

Before dealing with the organization structure of the Department and the changes recommended in connection with it, we think it will be helpful to discuss certain of the administrative policies and practices, and the ways in which these can be improved.

### Planning and Preliminary Work:

We believe that many of the difficulties under which the Department has been operating stem from a lack of adequate and systematic planning and insufficient preliminary work prior to calling for tenders. This includes both the lack of an overall plan for the development of highways throughout the Province, and insufficient detailed planning and engineering of particular projects before work is started.

In the days when construction work was limited to a few new highways and the resurfacing or rebuilding of existing highways, planning was not of such importance, and the Head Office Engineers could make frequent visits to supervise the larger projects. With the vast expansion in highway construction since the end of the war, this procedure is no longer practicable or possible. Projects, which would have been considered of major importance a few years ago, have now become routine, and the planning required for such projects has been inadequate. Attempts have been

made in the last year to correct this situation, but there is still need for considerable further improvement.

BY THE CHAIRMAN:

Q This, I take it, is one of the major factors in this matter, at the moment?

A Yes, I think it is.

MR. OLIVER: What is?

THE CHAIRMAN: It says:

"Projects, which would have been considered of major importance a few years ago, have now become routine, and the planning required for such projects has been inadequate."

MR. OLIVER: There is no question about that.

THE WITNESS: During the war when new construction was restricted the engineers in the Department attempted to draw up a long-term plan for highway development throughout the Province. This plan was dropped partly because it did not have the full support of all the senior officials in the Department and partly because it did not meet adequately the changed conditions which developed in the post-war period.

BY MR. WREN:

Q In regard to that particular point. You say:

"This plan was dropped partly because it did not have the full support of all the senior officials in the Department..."

What objection do you have to that?

A I think everybody is agreed there should be a long-term plan. I say the plan which was drawn up during the war was dropped, six or seven years later.

Q Why? Did these senior officials think it was a poor plan, that they did not want to support it?

A I cannot answer that. But the staff has been changed, and that is the general impression I received, that the plan was drawn up, and there was disagreement with the plan, because of the pressure of work, and the plan was dropped.

BY MR. OLIVER:

Q The plan was dropped, because of the opposition of the senior officials?

A I would not say "opposition", as much as "lack of agreement".

Q Was it because of their opposition to this particular plan?

A Or lack of agreement to the over-all plan.

MR. COLLINGS: We would have to know what the plan was.

HON. MR. PORTER: I believe we are not really concerned with that. I understood there was a plan, but, for some reason, it was not a plan which met with the approval of certain officials of the Department.

MR. HERBERT: Would it not be when there was a plan when there was not much construction going on, but after the war, there was a change made, which made it impracticable?

A Yes. During the war, many engineers were away, and the staff which was here drew up a plan, and when some of the people came back, their views did not agree with the views of the people who had remained in the Department throughout the war.

BY MR. OLIVER:

Q The inference to be drawn is when this plan was dropped, there was no other plan to take its place?

A No question about that.

BY MR. WREN:

Q All planning had ceased?

A There was no over-all plan.

BY MR. JANES:

Q You say, it did not meet the conditions of the Department in the post-war period?

A That is right.

BY THE CHAIRMAN:

Q Which you explain in part was due to the lack of sufficient staff?

A That is right.

Q Perhaps at this point, it might be a good time

for you to express your views on the general personnel of the Department of Highways, and the men who were interviewed by you.

A I think our impression of the general standard of the staff of the Department of Highways was favourable. We thought the standard of the employees in the Department of Highways was higher than you would find in industry of a corresponding size.

BY MR. OLIVER:

Q You are speaking of the ones which remained?

A Yes. We were favourably impressed with the over-all picture.

I will start this paragraph over again, if you will permit, Mr. Chairman.

During the war when new construction was restricted the engineers in the Department attempted to draw up a long-term plan for highway development throughout the Province. This plan was dropped partly because it did not have the full support of all the senior officials in the Department and partly because it did not meet adequately the changed conditions which developed in the post-war period. Nevertheless a long-term plan is essential if the work of the Department is to be carried out intelligently. Such a plan should be co-ordinated with the plans of counties and municipalities in order to facilitate day to

day decisions which must be made respecting the merits of particular projects.

BY MR. OLIVER:

Q I think this is important. You would say, from your investigations, that in the Department of Highways there is no adequate long-term plan, at the moment?

A Yes.

Each year the Division Engineers, based on their knowledge of local conditions and the requirements of the public in their areas, submit recommendations respecting the work which should be carried out in their Divisions and the priorities which should be assigned to it. These recommendations are reviewed at Head Office and in many instances the priorities have been changed without sufficient consultation with the Division Engineers concerned. Decisions in connection with major projects such as the four-lane highways, are made at Head Office including the priorities to be assigned to them. Priority lists are developed which include both the major projects and the work recommended by the Division Engineers. From time to time these lists are submitted to the Minister for approval when it is decided to call for tenders to proceed with a certain amount of work. On occasion, even at that late date, just prior to calling for tenders, priorities have been changed and new projects added to the lists. As a

result there has been little or no time to carry out the necessary preliminary engineering in connection with such added projects.

BY MR. WREN:

Q You mean by that statement, I would take it, that projects for which adequate pre-engineering was done were set aside for projects on which adequate pre-engineering had not been done?

A Not necessarily. I think changes were made.

Q But you say:

"As a result there has been little or no time to carry out the necessary preliminary engineering in connection with such added projects."

That is, the other projects were more completely engineered?

A I think they were better engineered, yes. This was the attitude.

BY MR. OLIVER:

Q They were better engineered than those where there was little or no engineering work done?

A That is right.

BY MR. WREN:

Q Did you find any where there was no engineering work done before they were started?

A I think I will come to that a little later.

THE CHAIRMAN: It seems to me, the best way to proceed is to get the whole report in our minds, and then go back and spend as long a time as we require on the details. If we do not do that, we may get off into questions which we will find have been answered later on in the report. Of course, within limits, questions are proper.

MR. OLIVER: I do not think we are offending in asking for clarification or interpretation.

THE CHAIRMAN: No, but everybody will have a chance to ask all the questions they desire, after we hear the report.

MR. OLIVER: The witness is very capable, and is conversant with the details of all these matters.

THE WITNESS: Once the priority list is finally determined the Divisions are instructed to carry out the detailed engineering and to submit to Head Office plans and estimates of quantities to be moved and unit prices. The amount of detailed engineering performed and the accuracy of the estimates of quantities to be moved and of the unit prices has varied depending on the time available. In some instances adequate preliminary engineering was carried out and the estimates have proved accurate. In other cases the time allowed was only sufficient to map out a rough route and estimates were based on experience of

similar projects in the past. In some instances the plans and estimates submitted by the Divisions have been changed at Head Office without reference to the men in the Divisions. As a result in many cases the information supplied to the contractors as to the conditions which might be expected was not sufficient to allow them to make realistic bids.

BY MR. OLIVER:

Q May I ask this question at this time? You say:

"In some instances adequate preliminary engineering was carried out, and the estimates have proved accurate."

Is it a fair statement to say that where you found there was ample and sufficient engineering work carried out, the variations between the estimates and the actual was very small?

A I would not say "very small". There will always be variations in this type of work.

Q Well, relatively small?

A Yes, relatively small.

When time was available it was the normal practice to make a survey and record the exact location of the centre line and edges of the road before tenders were called. As the time available for preliminary work was reduced this practice was restricted and in recent years only the centre

line of the road has been surveyed and recorded. In a few instances the survey was not carried out until after the decision to call for tenders had been taken. The more detailed survey was performed just ahead of or during the actual construction work. It is not possible to make accurate estimates of the quantities to be moved until the survey has been completed and this should be done before tenders are called.

One of the time consuming tasks in preparing for the construction of a highway is the purchase of property. Insufficient time has been left for this purpose and in a number of instances the actual construction work has been held up because the property has not been acquired. In some instances contractors have claimed compensation for delays because properties were not acquired prior to the time when the contractors were ready to proceed with the work. Furthermore, knowledge that work on a road has commenced makes the purchase of the land more difficult and increases the number of occasions when expropriation must be resorted to, with inevitable disputes as to price and delays in settlements.

Due to the lack of an overall plan and to insufficient preliminary engineering there have been numerous changes in routes and in specifications after tenders have been called and contracts let. Decisions to

construct certain highways to Trans-Canada standards, sometimes after the work had commenced, have resulted in considerable changes in the quantity of work to be performed. Such jobs were not reestimated; new tenders were not called; new contracts were not negotiated. As a consequence the staff at Head Office had little or no control over the work to be performed or over the cost thereof.

We believe that to remedy these conditions the planning side of the organization should be strengthened. All new construction and rebuilding of roads should be part of an overall plan. The preliminary engineering required should vary from important new projects and for less important local projects. The time required for planning and preliminary work should also vary, depending on the location and size of the project. These questions are dealt with in the following paragraphs.

Long-term plan

The Department should draw up a broad long-term plan for the development of the highway system throughout the Province. The plan should not be rigid but should be changed from time to time as a result of continuous studies of all factors bearing upon the future requirements for highways in the Province. Shorter term planning should take into account the best possible forecasts of long-term future requirements.

Those responsible for this planning within the Department should work closely with the officials in other Departments who are concerned with planning and with the economic development of the Province. For example, any long-term plan for highway construction should take into consideration not only current needs but also plans for the development of more remote or backward areas. The effect of major developments such as the St. Lawrence Seaway should be assessed. Forecasts should be made of population growth, industrial development and the anticipated increase in motor vehicle usage resulting from such growth. The effect of new or altered provincial highways on existing and projected county and municipal roads should be studied and whenever possible the plans of the counties and municipalities integrated with those of the Province. Projected plans for new highways in the United States near the Canadian border should be closely followed and estimates made as to their effect upon our highway system.

Experience in the United States has shown that much useful information can be obtained from traffic counts and surveys of the destinations of particular drivers. The Department makes similar studies but there has been a tendency to rely more upon individual judgment rather than upon the factual information derived in this way.

Short-term plan

Decisions as to the priority of major projects

should be made several years in advance in order to allow adequate time for preparation. These decisions should only be made after careful study of all the information available to those responsible for the long-term planning and, when applicable, after detailed traffic and destination surveys have been undertaken. An estimate of the cost of each project should be made. This estimate should not involve detailed survey or soil studies in the initial stage, but should be sufficiently accurate to permit rough cost estimates to be made. A decision should then be reached as to the amount of the total construction budget which is to be allotted to major projects such as four-lane highways and the Trans-Canada Highway in each of the next three or four years. When this has been done definite decisions should be made respecting priorities in connection with such major projects and sections thereof, and their estimated dates of completion.

Once this basic information is available it should be possible to decide on the priorities for the various projects recommended by the Divisions. Each Division Engineer should be requested, as at present, to recommend the projects required within is Divisional area. However, the decision to accept these recommendations should be made only after more detailed study than has been done in the past. Preliminary estimates of cost should be prepared

before a project is approved and a priority allotted. We think it is important to emphasize in this connection that sound decisions can only be reached after full discussion and consultation with the Division Engineers. If the recommendations of the Division Engineers are not accepted, it is important that they should be fully informed of the reasons for rejection or deferment.

Detailed engineering studies should be undertaken as soon as a project has been allotted a priority. We suggest that such engineering studies for important new highways should be carried out by the Head Office staff. The smaller projects should be developed within the Divisions with assistance from Head Office if required.

BY MR. WREN:

Q Did you find many cases where the recommendations of the Division Engineers were not followed?

A Some instances, yes.

BY MR. OLIVER:

Q In those instances, where the recommendations of the Division Engineers were not followed, did you find they were not furnished with the reasons for the recommendations not being followed?

A I would say there was not enough information given to the Division Engineers when a change was made. I think it is important to keep the people in the field

informed as to that.

BY MR. WREN:

Q It would not be very good for their morale, would it?

A No. I think it is necessary to make all this information available to the Division Engineers.

Detailed engineering studies

The final decision as to the exact location of a highway requires the consideration of a large number of factors. These include the origin and destination of the highway, the location of population centres near the proposed route and hence the most advantageous location of the highway to obtain maximum usage; the terrain over which the road will pass; soil conditions; the layout of property in the vicinity of the proposed route; and relative costs of construction. The staff in each Division through which the highway is to pass should be consulted before the final choice is made as they will be familiar with local conditio The Head Office officials whose views should be sought before a final decision is reached should include Location Engineers, Bridge Engineers and specialists on soils and traffic problems, etc.

Once the route has been finally agreed to, there will still be a considerable amount of work to be done before tenders are called. Detailed surveys should be made

to record the centre line and sides of the future road; the Soils Engineers should make tests of the ground over the whole route in order to reduce to a minimum the unexpected conditions encountered when work actually commences; and detailed estimates should be made of the quantities to be moved. All this information should be used in the final estimate of the cost of the project.

As soon as the route is agreed upon, the Property Section should be instructed to obtain the necessary land for the right of way. All properties should be purchased and taken over by the Department before construction commences.

The design of bridges should be undertaken by the appropriate engineers at Head Office or by outside consultants and plans prepared in sufficient time to ensure that the bridges will be constructed by the time the other work on the highway is completed.

Mr. Chairman, this may be a convenient place to break off.

THE CHAIRMAN: Yes, I think so. We will adjourn until 2:30 p'clock this afternoon.

---- The Witness temporarily retired.

---- Whereupon the further proceedings of this Committee adjourned until this afternoon at 2:30 o'clock.

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AFTERNOON SESSION

Toronto, Ontario
Monday, May 17th, 1954.
2:30 o'clock p.m.

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The further proceedings of this Committee reconvened pursuant to adjournment.

All parties present.

Same appearances as heretofore noted, with the addition of Mr. R. D. Jennings, representing the Standard Paving Company.

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THE CHAIRMAN: Gentlemen, let us come to order. Are there any gentlemen present representing any organizations, who would like to make that fact known to the Committee -- representing either a company or any individuals? Is there anybody here from the Professional Engineers Association? (No response.)

Then, we will carry on with Mr. Gordon.

DUNCAN LOCKHART GORDON,

a witness previous heard, and now recalled, who having been already sworn, continues his testimony as follows:

BY THE CHAIRMAN:

Q Will you now proceed, Mr. Gordon?

A Mr. Chairman and gentlemen; I was reading from the middle of page 12.

Awarding of Contracts

Another factor which has contributed to the difficulties of the Department is the system which has been followed in the awarding of contracts. The practice has been to call for tenders for construction work at various times without sufficient consideration being given to the season of the year. In many cases tenders were called during the winter months when it was impossible for the contractors to make a proper inspection of the ground and thus to submit realistic bids. Furthermore, the time allowed between the publication of the notices calling for tenders and the date for submission of final bids has, in many cases, been insufficient to allow the contractors to make a satisfactory examination of the projects before bidding, particularly when a number of tenders were called simultaneously.

The stated policy of the Department has been to award contracts to the lowest bidder. There are no regulations, however, as to the course to be followed if the bids submitted are all unreasonably high or unreasonably low, or in the event of a contractor being the low bidder on more work than he is equipped to handle satisfactorily. Lacking such a regulation, it was the practice

in the latter case to allow the next lowest bidder who was considered capable of performing the work to make a second bid at a price below the original low bidder.

BY MR. OLIVER:

Q What practice did you find in those cases where you found the bids to be unreasonably low?

A As far as I know, they were always awarded to the lowest bidder, even though they might be considered unreasonably low.

BY MR. WREN:

Q How many times did you find them awarded to the next lowest bidder?

A I cannot give you an exact figure on that.

Q Were they numerous?

A No, not numerous.

MR. COLLINGS: There is nothing wrong with that, if the next lowest bidder wants to take the contract at the lowest price.

MR. WREN: Why would not all the others have a similar opportunity?

MR. COLLINGS: Oh no. The next lowest bidder could get it. I know that is the municipal practice.

MR. WREN: It is invitation bidding, when the lowest bidder is not awarded the contract.

MR. COLLINGS: That may be for some reason.

MR. WREN: Let the witness answer my questions.

MR. GRUMMETT, Q.C.: There is only one witness here.

BY MR. WREN:

Q What is your answer?

A I have not answered. I do not understand the question.

Q Would it not be considered as invitation bidding if the lowest bid is not accepted?

A I do not know just what you mean by "invitation bidding".

Q The low bidder already has a job, and the Department thinks perhaps he could not handle both jobs, so it invites somebody else to come into the picture?

A Yes.

Q Are you trying to recommend that they should be recalled in a situation like that?

A We have our recommendations following a little later, if we can just go through this (indicating). The first part says what we think might be wrong, and then we make recommendations in regard to those things.

There have been wide variations in the unit prices bid on particular contracts and variations in the unit prices bid for similar work on adjacent contracts. These prices have often been well below the estimates of

the Department's own engineers who, in some cases, have doubted whether the contractors could carry out the work at the prices specified in their tenders. This has led to a tendency on the part of some of the Department's engineers to be generous in their interpretation of the terms of the contracts when dealing with contractors. It was possible for them to assist contractors in a number of different ways. As is described later herein certain engineers were required to classify the quantities of boulders which should be paid for at rock prices. This is largely a matter of opinion and on occasions the classification would appear to have been made on a liberal basis. In some cases where the contract called for the movement of earth the quantities moved were paid for at prices applicable to granular material. (Granular material may actually have been moved although not called for by the contract.) On other occasions contractors were permitted to place a higher grade of material on the road than the contract called for. In these instances we are informed the unit price for the material actually handled was higher than the price which would have been paid for the material specified in the contract. On some occasions the contractors were permitted to overbuild the roads and paid for moving quantities in excess of those called for by the contract.

BY THE CHAIRMAN:

Q Will you explain what you mean by "overbuild"?

A I think I mean here that if the specifications called for a 38-foot highway, and it was built out to 40 or 45 feet.

BY MR. OLIVER:

Q Would you say these things you have been discussing in the last six or seven lines, constitute a re-classification? Would that be a proper interpretation to put on them?

A I would not use that expression.

BY MR. WREN:

Q If you are changing the unit price of material, are you not re-classifying?

A "Classification" is the term generally used in that regard.

Q But you say:

"In these instances we are informed the unit price for the material actually handled was higher than the price which would have been paid for the material specified in the contract."

We were told this morning by another witness that the unit price was never changed.

A We are speaking of two different things. For instance, in regard to the classification of "boulders":

If you get a lot of boulders mixed in with the earth, then the engineer classifies the percentage of the earth to be paid for at rock prices.

The next sentence is something quite different.

Q These unit prices; are you suggesting they are changed?

A To which sentence are you referring?

Q About the tenth line.

THE WITNESS: It says:

"In these instances, we are informed the unit price for the material actually handled was higher than the price which would have been paid for the material specified in the contract."

Supposing your contract called for placing 5/8 crushed material on the road at one unit price, but actually 7/8 crushed material was placed on the road, the price for that material would be higher than the less finely ground material.

Q That is re-classification.

A No. They are actually paying for the material put on the road.

BY MR. MAPLEDORAM:

Q Would that be because the material was not available on that particular road, or because they wanted a better road than that for which they actually tendered?

A I think in the case to which I am referring, it may have been done because the contractor received a better return than he would have, had he used the unit material.

BY THE CHAIRMAN:

Q Those are particular cases to which you are referring now?

A Particular examples of situations. Shall I go on, Mr. Chairman?

Q Yes, please. You use the words "overbuild"? You use that to indicate that originally the tender may have been called for 38 feet, but ultimately you got a 46-foot road, or something of that kind?

A Yes.

Irregular methods involving the falsification of records were also adopted in some cases. These are under investigation at the present time by Mr. H. A. Cotnam, F.C.A., Provincial Auditor.

Mr. Cotnman this morning gave two or three examples.

BY MR. WREN:

Q Yes, he gave two or three this morning in regard to irregularities. You heard him when he spoke this morning?

A Yes.

Q Would you be referring to the same things?

A Yes, I was.

The practice is for tenders to be submitted to the Contract Engineer of the Department by twelve noon on the day specified. Tenders are opened in the presence of the Minister, the Deputy Minister, and the Contract Engineer but not necessarily on the day called for; in some instances five or six days have elapsed before tenders were opened. There is no formal procedure for notifying all contractors of the successful tender; only the contracto who is awarded the contract is officially informed. Information as to the low bid is considered to be confidential and is not made public. This information is of great interest however, to the unsuccessful bidders, and possibly to other contractors as well, and we understand that it becomes known in one way or another. We believe a better procedure is to open tenders in public and to announce the unit prices bid by the successful tenderer.

The regulations require that a deposit of 15% of the amount of the tender must be made with the Chief Accountant of the Department at the time the tender is submitted. Contractors have not been required to make deposits on all tenders submitted. The regulation has been interpreted as meaning that a contractor must have made a deposit of 15% of the tender price of any contract

before it can be awarded to him.

BY MR. WREN:

Q You mean by that, that some contractors were allowed to bid and see how they made out, before they put up the 15 percent.?

A No. What I mean by that is, if a contractor was bidding on five contracts, he would make a deposit sufficient to cover one contract, and he would be ultimately awarded one contract, that is, if he was the low tenderer.

This has meant that contractors, who only expected to be awarded one contract, could bid on several contracts called at the same time and deposit one tender cheque in an amount sufficient to cover only one contract.

The terms of the contracts require the contractors to make a deposit with the Department or to obtain a completion bond from an insurance company to guarantee the completion of contracts undertaken. This regulation has been complied with but there have been very few occasions in the last seven years when the bonding companies have been called upon. This may have made it easier for some contractors to obtain bonds and thus bid on and accept contracts which they could not complete without assistance.

BY MR. JANES:

Q Are you criticizing the 15 percent. deposit?

A As an amount?

Q Yes.

A One of our recommendations further on is that the procedure be changed. We do not think the 15 percent. deposit should be required. It depends on what the purpose of the deposit is to be.

BY THE CHAIRMAN:

Q You are recommending 5 percent. later on?

A Yes, 5 percent.

Some of the problems described above have been encountered elsewhere in the past and experience has shown that they can be overcome by adopting the procedures set forth in the following paragraphs. The most important of these is the pre-qualification of contractors, the purpose of which is to ensure that work is awarded only to firms which are capable of carrying it out in accordance with the terms of the contracts.

Pre-qualification

Competitive bidding has many advantages, the most obvious being that the work should be done at the lowest possible cost to the public and every contractor has a fair opportunity to obtain a share of it. The difficulty in competitive bidding, however, is to ensure that the lowest bidder is capable of performing the work in a satisfactory manner.

In order to deal with this problem the State of

Michigan passed a pre-qualification law which was put into operation by the Michigan State Highway Department in September 1933 and according to the State Highway Commissioner "has worked effectively for the mutual benefit of all concerned since that date". We understand that similar laws have been adopted in thirty-nine of the other States of the Union with satisfactory results.

The law provides that any person proposing to bid on a contract for construction, maintenance and/or repair of public works except public buildings may be required to submit a statement setting forth his qualifications to satisfactorily carry out the work to be performed within the time specified. The qualifications which are taken into consideration include past performance on work of a similar nature; financial resources; construction equipment and facilities which it is proposed to use on the work; and any other available information which would enable a decision to be reached as to whether the proposed bidder is qualified to bid on the work.

The law authorizes refusal to allow a contractor to bid on a contract if his qualifications are not satisfactory. It also provides that if the volume of similar work is sufficient contractors may be rated as to types of work which they are qualified to perform. Provision is made in the law for an appeal to the courts in the event of

dissatisfaction with the rating.

The Michigan State Highway Department has developed regulations setting out the information required from contractors and the method to be followed in rating contractors for particular types of work. With the permission of the State Highway Commissioner a copy of Act No. 170 of the Public Acts of 1933, State of Michigan, and of the "Rules and Regulations Governing The Classification and Rating of Prospective Bidders" are attached hereto as Appendix "A" and Appendix "B" respectively.

BY THE CHAIRMAN:

Q May I ask you, in passing, whether that Act has been amended since 1933, or is it the original Act?

A As far as I know, the Act has not been amended. I think the regulations have been amended from time to time, and the one we attach here as an appendix, is a copy of the latest regulations which are in existence at the present time.

Under these regulations a contractor who is already working on a contract will have his rating for new contracts reduced by the amount of the uncompleted portion of contracts previously awarded to him. If a contractor is the lowest bidder on several contracts at the same "letting" and the total of these exceeds his rating, the Department decides on the contract or contracts to be

turned over to another bidder. The contract or contracts assigned to the original bidder will be those which are most beneficial to the State.

We were informed that in Michigan these procedures have worked out satisfactorily both for the large and the small contractors. The regulations have been such that many small contractors have developed over the years into substantial concerns. At the same time the number of failures of contracting companies has been reduced to a minimum as they have not been permitted to undertake more work than they were fitted to handle.

(Page 286 follows)

BY THE CHAIRMAN:

Q Just a question there, Mr. Gordon, as we go along. From your knowledge of the general contracting business, is there a shortage of contractors for that sort of work in the province at the moment, or are there an ample number of contractors to do even a bigger job than we have done.

A To my knowledge, there are ample contractors to do as much work as there is to be done.

Q The same shortage applies to contractors as to the engineering profession?

A That is right.

We recommend that similar legislation be applied for in Ontario which would permit the Department of Highways to adopt a system of pre-qualification of contractors. Such legislation should provide for appeal to the courts by any contractor in the event of dissatisfaction with his rating. The Highway Improvement Act provides that before accepting tenders for work subject to a subsidy the approval of the Minister of Highways must be obtained. We recommend that this Act be amended to make the proposed pre-qualification procedures applicable to all contracts entered into by townships, counties or municipalities where the Provincial Government

pays part of the cost.

Preliminary engineering and timing of tender calls

Tenders should not be called until preliminary engineering has been completed, properties purchased and the Department is satisfied with the state of readiness of the plans and the accuracy of its estimates. This means that more time should be available between the determination of priorities and calling for tenders. It means also that a larger proportion of the Department's staff should be engaged in this work and that detailed procedures should be extended and clarified.

We suggest that the Department take immediate steps to strengthen the planning side of the organization even if this means reducing to some extent the amount of new work undertaken in 1954. Every effort should be concentrated on planning projects for 1955 and subsequent years. While this may result in some moderate reduction in the work which can be carried out immediately, it will permit considerably more work to be done in the next few years in an orderly and efficient manner. We understand that there are consulting engineering firms who would be able to prepare detailed plans and estimates of particular projects. We recommend that the services

of such firms should be engaged to assist the staff of the Department until such time as a backlog of planned projects can be built up.

Careful consideration should be given to the time of the year best suited for calling for tenders. In the case of important contracts, there would be certain advantages in calling for tenders in the Fall of the year. This would provide ample time for the contractors to inspect the projects and would give them the opportunity of visiting the areas in question under the best possible conditions. Knowledge of the work which is to be carried ou in the following spring should assist the contractor in their own planning and allow for an early start as soon as weather permits. Tenders for bridges and certain other projects can be called at various times during the year.

Public opening of tenders

Tenders should be opened in public and full information as to the low bid made available to all bidders. If pre-qualification procedures are in effect it will be known in advance which contractors are eligible and only such contractors should be given the necessary information and permitted to bid. Tenders should be brought in by

the contractors and opened at some specified time in the morning; the total amount of each bid should be read out and recorded against the bidder's name; the tender cheque should be examined and the amount of the low bid indicated. Time will then be required for the staff of the Department to check the low tenders for arithmetic accuracy and to ensure that the tenders are complete. If an error is disclosed the next lowest tender should be checked and so on. At a second public meeting later in the day, the successful bidders should be announced. At a later date, the unsuccessful bidders should be given a copy of the successful bid with full details of the unit prices.

BY THE CHAIRMAN:

Q Do you recommend something you have a precedent for in that recommendation?

A After the opening of tenders?

Q Yes. Will you clear us up on that?

A I think it is used in several other jurisdictions.

We do not believe it should be necessary for the Minister or the Deputy Minister to be present when tenders are opened. This should be the responsibility of the Chief Engineer and/or other senior officials of the Department.

Tender deposits

The introduction of pre-qualification should ensure that the contractors entitled to bid are financially responsible. This being the case, we suggest that tender deposits be reduced to approximately 5 percent. of the amount of each tender. The purpose of these deposits should be to ensure that the successful tenderer will in fact sign the contract at his bid price. The procedure would be to state in the advertisement the percentage deposit required. An alternative procedure would be to include in the advertisement calling for tenders a fixed amount in dollars as the deposit required. This should be approximately 4 percent. to 6 percent. of the Department's estimate of the cost of the work. The tender cheque of the successful bidder and the next lowest bidder should be retained until the contract is actually signed. All other cheques should be returned on the day that tenders are opened. In the event that the low bidder does not sign the contract, his deposit should be forfeited.

BY THE CHAIRMAN:

Q Is that also something which has a precedent -- recommendations along those lines?

A Yes, definitely.

Payment for and Control of Construction Work Performed

The work to be performed in the construction of a highway includes clearing the right of way; moving earth and rock; preparing the base; construction of bridges, culverts, etc.; and surfacing and finishing. In order to clear the right of way, it is necessary to cut down trees, remove stumps and underbrush and to do anything else that may be necessary to prepare the right of way for construction. This operation is generally known as "clearing and grubbing" and should be performed as a separate contract when the country is heavily overgrown, in order to allow accurate estimates to be made and accurate bids to be submitted.

The next operation is to level the land to the necessary grades by removing the earth or rock which is above the rquired grade level and by using the material, and any additional material required, to fill in the depressions below the required grade level. This is the biggest part of the job, both on new construction or in widening or straightening existing roads.

Once the grading has been completed, it is necessary to build a base on which the final surface is laid. This base consists of granular material

(gravel or crushed stone). Granular material may not be readily available close to the project in which case it must be obtained from suitable deposits of such material which are known as borrow pits.

The construction of bridges and larger culverts will usually be carried out as separate projects. Small culverts and drainage ditches are usually included in the grading contracts.

The final operations are the laying of crushed stone or rock on top of the base; putting on the surface of concrete or bituminous material (asphalt); sodding the right of way; and putting up guard rails, etc.

Experience has shown that there are so many variables and unforseen conditions in the construction of roads that it is impracticable to obtain a firm bid for the whole job. To do so, it would be necessary for the bidder to provide such a large allowance for contingencies that the overall cost would be much too high. The system of competitive bidding for this type of construction which has been developed over a period of many years is in general use, both in Canada and the United States. Under this system, the contractor is supplied with estimates of the quantities of various types of work to be performed, i.e., the

number of acres of land to be cleared, the cubic yards of rock to be moved, the tons of gravel to be dumped, etc. Each contractor bids a unit price for each type of work to be performed; his unit price is multiplied by the estimated quantities to be moved; and a total dollar amount is arrived at. The contract is awarded to the contractor whose overall bid is the lowest.

It should be emphasized that in this type of construction, exact estimates cannot be made. The quantities to be moved are very large and the unit prices are relatively very small. This means that in preparing estimates, errors up to hundreds of cubic yards of material are unimportant and have a negligible effect upon the final bid.

Payment for the work done is based upon the quantities which are actually moved and not upon the estimates. The control procedures and methods of payment used by the Department are discussed below as they relate to the various phases of construction, including recommendations as to the procedures which should be adopted for the future.

Clearing the right of way

Estimates are made of the number of acres to be cleared and bids are submitted to perform this

work at so many dollars an acre. The amounts involved in this phase of the work are relatively small and the present procedures appear to be satisfactory. Whenever possible on important new construction projects, this work should be performed well in advance of the grading contracts as much more accurate estimates can then be made by the Department's staff of the quantities of earth and rock to be moved during the later stages of the work. Similarly, the contractors should be in a better position to prepare their bids for the other work to be done.

Moving earth and rock

Payments for moving earth and rock are calculated by multiplying the actual quantities of material moved by the unit prices set out in the contract. The quantities of material moved are computed from surveys made before the work is commenced and as it proceeds. Departmental employees are responsible for making these surveys and for computing the quantities of material moved. This method of payment is in universal use and as far as we know, is the most effective that has been devised. There is no reason why it cannot be operated effectively by the Department.

In recent years, however, the survey was not always completed before construction work commenced nor were accurate estimate made of the quantities to be moved. Surveyors from Head Office recorded the centre line of the road, but, as mentioned previously, they did not complete the survey of the edges of the road due to lack of time. The complete survey was carried out just ahead of the actual construction work and the man responsible for recording the level of the ground before work commenced was also responsible for certifying to the quantities actually moved by the contractors.

In future, the original survey of the centre line and edges of the road (known as cross sectioning), should be carried out in advance and as a separate operation.

BY THE CHAIRMAN:

Q You say:

"In future, the original survey of the centre line and edges of the road, known as 'cross sectioning', should be carried out in advance and as a separate operation."

Is that practical in northern Ontario, would you say?

A As far as I know it is, provided there is

time to carry out the survey, ahead of time.

BY MR. MAPLEDORAM:

Q That would be done after the clearing contract had been let? You would do the clearing first?

A You would do the clearing and the grubbing, and then go in and do the survey.

BY MR. JANES:

Q Would it not be more expensive? The contractor would have to move in a lot of expensive machinery to do the clearing work and then perhaps move it out again. I would think it would make it much more expensive.

A If you let a contract for clearing and grubbing, I do not think the contractor would need any special equipment to do that work.

Q They could be using the same equipment?

A Actually, I do not know.

BY MR. MAPLEDORAM:

Q It is the same as the railways, cutting a right-of-way through the bush.

A I think it should be done by a separate tender.

BY HON. MR. PORTER:

Q This should be done by a separate contract?

A Yes.

BY MR. BECKETT, Q.C.:

Q It may be a different person altogether?

A Yes.

BY HON. MR. PORTER:

Q Is it done that way now?

A I think in some cases, it is done that way.

THE CHAIRMAN: I wanted to make sure that in making that statement, you had northern Ontario in mind.

THE WITNESS: The difference between northern and southern Ontario is that in northern Ontario you are likely to find the land much more overgrown, which makes it more necessary to do the clearing and grubbing up there ahead of time, in order to make accurate estimates for the next stage of the work.

MR. MAPLEDORAM: I agree with that.

THE WITNESS: This information should form the basis of the estimates to be used in calling for tenders. As the work proceeds, the quantities actually moved should be computed and control maintained by comparisons with the original records and estimates. This work should be kept up to date. Payments should be made on the basis of the quantities actually moved. Recently a Head Office group has

been organized to carry out an engineering test audit of the work in the field. This should be continued.

BY MR. OLIVER:

Q How recently was that?

A I think it was first used about last June.

Classification

Contractors bid higher prices for moving rock than for moving earth as the former is a more costly operation requiring the blasting and breaking up of the rock. If the road is to go through solid rock no great problem is presented as the surveyors can compute the actual quantities of rock to be moved. Difficulties have arisen,however,in going through country where boulders are encountered. With older types of equipment, boulders in excess of a certain size cannot be handled in the normal way and have to be broken up. The contractor is entitled to be paid for the moving of boulders in excess of a specified size at the same price as for moving rock, but it is not practical to take detailed measurements of the actual volume of such boulders. The practice has been for a senior engineer to visit the work and make an estimate of the proportion of the total material to be moved as boulders. Having done so,

the engineer instructed the Department's man in charge of the work to classify as rock a certain percentage of the total material to be moved. This called for good judgment and required skill and good faith on the part of the engineer. In the past, some of the Department's engineers may have been generous in their classification in order to assist contractors.

In December, 1953, the Department changed the terms of its contracts.

BY THE CHAIRMAN:

Q May I interrupt you again? The paragraph above, taken by itself, perhaps needs some amplification.

"In the past, some of the Department's engineers may have been generous in their classification in order to assist contractors."

In your research, did you find any reason for thinking they were assisting contractors?

A I would say there was.

Q What would be the reason?

A I think if a contract has been awarded at a low price, the Division engineer will have a tendency to be more liberal with the contractor, than he otherwise might be.

BY MR. WREN:

Q You say "they might be"; have they been?

A I think they have been.

BY THE CHAIRMAN:

Q Could I put it this way? Having the overall picture you have of this, have you come to any conclusion with respect to the unit price which would prevail in the case of tenders which were accepted? You might just generalize on that, if you wish.

A I do not think I can express an opinion as to the unit price with any degree of accuracy, because I am not an engineer, and have not had the experience. But we have been told that in some cases, people have felt the prices were too low.

Q Was that an expert opinion?

A It was an outside expert's opinion.

Q From an outside engineering staff?

A Yes.

Q Did you get that impression?

A Yes.

BY MR. MAPLEDORAM:

Q In fairness to the contractor, you have no knowledge of how many boulders there are going to be, any more than the engineer, so if it costs money to move them --

A Classifications under the contracts are perfectly proper. It is purely a matter of judgment

as to the amount.

BY MR. HERBERT:

Q Some of these were stated on the last page, but it is certain that some of these bids were too low?

A I think some of them have been too low.

BY THE CHAIRMAN:

Q With that background, you say the engineers have been generous in their classifications. Is that chiefly a matter of this contract or would you make that as a general statement ?

A I would prefer to leave it in the broad sense.

BY MR. WREN:

Q To assist a contractor, if some fellow has bid too low a price?

A If a fellow has bid too low a price, and will take a big loss on the contract, then I think there has been a tendency to be a little more generous.

BY MR. OLIVER:

Q Do you think that tendency would emanate from the Division Engineer's office?

A It could.

Q Do you think that it did?

A I think on occasion they probably did.

Q And where, on other occasions?

A I think it could go all the way up and down the line.

BY MR. WREN:

Q You think it could? But did it? Did you find any examples?

A It is very difficult, Mr. Wren, for anybody to say whether something has happened or has not happened in regard to classifications, because once the classification has been carried out, and the material has gone, it is a matter of opinion, and no two people's opinions will agree.

MR. OLIVER: It is hard to comprehend , Mr. Chairman, how the engineer in a local Division would become so solicitous if a contractor had bid too low. It is not a normal disease, I would not think.

THE WITNESS: I think there is a tendency, if people think that somebody is getting a bad deal.

BY MR. WREN:

Q Why not let the bonding company take the "bad deal" rather than the public?

A I will put it this way; not to that degree, whether you do something generously or get very tough, depends on the man.

BY MR. GRUMMETT:Q.C.:

Q To put it plainly, is there not a greater opportunity for collusion between the contractor and the engineer in that type of classification?

A I think there is. I think that is why the Department has cut it out.

MR. GRUMMETT, Q.C.: I do not want to be unfair to the Department.

BY MR. OLIVER:

Q Would you classify this practice on the part of the engineers, about which you have been speaking, as being irregular?

A Not necessarily. All I can say is I have a feeling, and, as I said a few moments ago, it is never something you can establish one way or the other.

Any two people might have gone out under the same set of circumstances and arrived at a different classification. It is a matter of skill and experience, and you will never get two answers the same.

BY MR. GRUMMETT, Q.C.:

Q If you were taking on a job, you would not want that type of classification to be carried on, would you?

A I would prefer the method which the

Department has now adopted, which eliminates the necessity for classification.

BY THE CHAIRMAN:

Q That has now been eliminated entirely?

A As I understand it, in all contract work from December, 1953, there was no classification, and there were words in the contract to that effect, "There will be no classification".

BY MR. WREN:

Q You heard Mr. Cotnam say this morning there was a difference of some $15 million. Would the activities of this type produce a variation in that $15 million, do you think?

A I do not think you could ever be sure one way or another. The Departmental engineer may have allowed for some classification. If their judgment was right, and it turned out to be right, it would turn out to be exactly the same. As the facts turned out to be, it would make no difference.

Q Your statement provokes quite a lot of thinking. When you say, "They may be generous in order to assist the contractors", you are specifying for one purpose.

A That may be.

BY MR. HERBERT:

Q In the course of your investigations, you

found this procedure had been going on for a great number of years?

BY HON. MR. PORTER:

Q Pursuant to contracts which provided for classifications?

A Yes.

Q It was strictly in the terms of the contract?

A Yes.

BY MR. HERBERT:

Q Was it not a different way of saying that "You could give some extension for a few more miles of highway"?

BY MR. WREN:

Q The point I want to get clear is, if we have had bids on jobs, what is the point of having bids if we provide classified work to assist the contractors?

A As I said, I think that is why the Department has changed the system. With the more modern equipment, it is not necessary to have the classifications.

BY HON. MR. PORTER:

Q They have changed the form of the contract to cover that?

A Oh yes, they have changed the contract.

Q For many years, the classification clause was in all contracts?

A Yes.

Q It was intended, I suppose, to allow for a certain amount of flexibility of judgment which had to be applied?

A There was no other way of doing it.

Q No, there was no other way of doing it. Presuming the various officials were doing their work intelligently and honestly, that was considered a reasonably fair practice?

A That is right.

BY MR. WREN:

Q To assist the contractors?

A No, to classify boulders.

BY HON. MR. PORTER:

Q There was a classification clause in all contracts?

A Yes.

Q Which was considered to be quite a regular clause in a contract of that kind?

A Yes.

Q But now that has been eliminated?

A Correct, sir.

Q Because now they have found it can be done

without the necessity of that clause?

A That is right.

BY MR. OLIVER:

Q Would you say that this generous classification is any worse than increasing the quantities you encountered in some of the other contracts?

A It seems to me they are both based on fiction.

BY HON. MR. PORTER:

Q No; one is based on an opinion, and the other is based on an untrue statement of fact.

A That is right. One is based on a matter of opinion, which may have been given to the best of that individual's judgment at that time. The other was given by a straight falsification of documents. To me, there is a line between them, as clear as can be.

BY MR. WREN:

Q How can you tell whether this classification is "generous classification"?

A If you know the documents have been falsified, it is there in black and white. In the other, you can only get it from an opinion.

Q You would have to check the classifications?

A You cannot check classifications.

BY MR. GRUMMETT, Q.C.:

Q You can get an opinion as to whether there was an over-generous consideration of the contractors' position by the amounts of the increases in classifications?

HON. MR. PORTER:

Q If there was obviously a way out. It is a matter of degree.

MR. OLIVER: The net result is the same. The difference seems to be that in one you can get caught, and the other you cannot.

THE WITNESS: I suppose if an engineer classifies boulders along a strip of road at 10 percent., and it might have been 5 percent., nobody can say whether it was 10 percent. or 5 percent. It is a matter of the opinion of the man on the spot, under these conditions.

BY MR. JANES:

Q If an engineer gives an honest opinion, you cannot criticize him?

A No.

THE CHAIRMAN: I think before we conclude our proceedings, we would like to have a little more information from the legal department as regards the change in the contracts.

THE WITNESS: May I read this paragraph over again?

BY THE CHAIRMAN:

Q Will you just proceed, Mr. Gordon?

A In December, 1953, the Department changed the terms of its contracts. No classification will be paid for under contracts entered into after that date. The revised contract provides that boulders will only be paid for at rock prices if they exceed twenty-seven cubic feet; this will greatly reduce the number to be dealt with. Boulders over twenty-seven cubic feet will be measured and paid for on the basis of such measurement. If the standards of pre-engineering are high, the estimates of the quantities of rock which will be encountered, based on survey and soils tests, should prove reliable and will provide a check on the actual measurements in the field.

Advance and progress payments

Progress payments are made to the contractors each month based on reports prepared in the field showing cumulative quantities moved since work commenced. The contracts provide that advances can be made for materials or equipment delivered to the site of the work under terms and conditions

to be decided by the Department. In some cases in the past, at the start of a contract, members of the Department's staff have certified that quantities had been moved when it was quite clear that this was not the case. This was done to justify an advance payment to the contractor to assist him with the expenses of setting up his camp and moving his equipment. Such advance payments were later recovered by understating the quantities actually moved in succeeding months. This method of making advance payments is not consistent with the terms of the contracts and requires the staff of the Department in the field to send in statements showing that work has been performed when in fact it has not been done. Furthermore, this procedure makes it more difficult to keep control of the quantities actually moved during the course of the contract.

We recommend that this practice be discontinued. The reports from the Department's field staff should show only their estimates of the quantities actually moved. If it is necessary to finance contractors in the initial stages of the work, the contract should provide for an advance of 5% to 10% of the total contract price which could be

recovered from subsequent payments as they become due. But if the pre-qualification procedures recommended previously are adopted, it should not be necessary for the Department to finance the contractors as only those who are financially able to comply with the terms of the contract would be permitted to submit tenders.

BY MR. WREN:

Q In other words, you would say that these false advance payment reports were made with the knowledge of the Head Office here? Would you say that?

A That is a broad statement.

Q Was it known to be an accepted practice?

A I would think it probably was known by some of the Head Office personnel.

Q To be an accepted practice?

A Not an "accepted practice", no. But it was done on occasion.

BY MR. OLIVER:

Q It was the practice?

A Yes.

BY THE CHAIRMAN:

Q You mentioned two classifications. That has been changed. Is there not one of these practices you recommended be discontinued? Do you

know whether it has been discontinued or not?

A I cannot tell you offhand. I would presume it had.

In the past, the contractors were not asked to approve or agree in any way with the progress estimates submitted by Departmental employees.

BY THE CHAIRMAN:

Q May I interrupt just a moment on that point again, because it could be quite possible to make an advance to a contractor without giving an understatement of quantities? If it was felt that the type of contractor warranted his having an advance in order to do certain things in the early stages, that could easily be by a provision in the contract.

A There was provision in the --

Q When you say you recommend the practice be discontinued, I agree completely that a practice which is a falsification should be discontinued, but do you think the entire practice should be discontinued?

A I think it may be in some cases that the contractor may say, "We will provide material for use on the roads later in the year". If that material has been placed on the job, there is no

reason why the Department should not make an advance. The work has been done and should be paid for.

Q That could be worked out in the terms of the contract, to cover what might be a very practical provision.

A I think the contract now provides for it. It is a question of providing by the terms of the contract.

Q I am sure the whole Committee thinks the practice as outlined here should be discontinued, but, personally, I do not think it should affect the other.

THE WITNESS: These estimates were sent in to Head Office by the Division Engineers and formed the basis of interim payments to the contractors. Monthly payments to the contractors were scrutinized at Head Office but final checks were not made until the work was completed.

BY THE CHAIRMAN:

Q As I recall it, this Firm did not require any interim payments by the contractor.

A That is my understanding.

BY MR. MAPLEDORAM:

Q He never submitted any field notes of his own?

A No, he just got a progress payment, based

on the Departmental figures.

Q Would that, in fact, not leave him at the mercy of the engineer, to some degree?

A I do not doubt it.

MR. OLIVER: They have been shown to have great mercy.

BY MR. BECKETT, Q.C.:

Q There is no definite check for these interim payments?

A I think from the Department's point of view, it is mainly up to the contractor, whether he checks or whether he does not.

BY MR. GRUMMETT, Q.C.:

Q Might it not give more information to Head Office if both the engineer and the contractor, independently of each other, sent in progress reports?

A My guess would be that the Departmental engineers would tell you that there are very few contractors who have sufficient engineering staff to make up a very sound estimate. Some of them do, of course.

BY MR. OLIVER:

Q If that is the case, Mr. Gordon, how could they intelligently check to approve the estimate?

A They must keep some form of rough check, as

to what is happening.

BY THE CHAIRMAN:

Q Have you had occasion to check with any contractors to ascertain whether or not that is feasible from their standpoint?

A No.

THE CHAIRMAN: I think we should get that answer before the Committee at some stage. Perhaps you could follow that up, Mr. Gordon?

THE WITNESS: I have not checked it up at all.

BY THE CHAIRMAN:

Q Perhaps we should know what their view would be on that. May we leave that with you?

A Yes.

In future,progress estimates should be subject to a much closer check and tested against the preliminary estimates at Head Office prior to payment. Contractors should be required to agree with the estimates of the quantities moved at the time progress payments are made.

Payment for earth borrow

As outlined above, the estimated quantities to be moved are computed as a result of a survey. In many cases, situations are encountered where

the cuts do not provide sufficient material or where a road is built through a swamp or muskeg and it is necessary to provide fill. Material for this is obtained from borrow pits. Payments are made on the basis of calculations of the quantities of material removed. This is done by survey methods or in some cases by weighing the material. When the latter method is used the quantities to be paid for should be test checked by survey methods.

Payment for granular borrow

The gravel or crushed stone required for the base of the road is also obtained from borrow pits. Suitable pits from which such material may be obtained must be located and in some cases will be a considerable distance from the site of the project. It has not been the practice for the Department to provide the borrow pits. The Department has prepared strip maps giving an indication as to where acceptable granular material might be obtained but it has not guaranteed either the availability or suitability of the material contained therein. This has meant that all the contractors wishing to bid on a contract have been competing with each other in trying to obtain options on pits in the area. This has resulted in an artificial

inflation in the value of the pits. The contract price for moving the material is based, in large measure, on the distances involved. In some instances, material indicated on the Department's strip map as being acceptable was inadequate or was subsequently condemned by the Department's inspectors when work commenced. The contractor was then forced to locate alternative sources of supply often requiring longer hauls and increased costs. There was no recognized basis for compensating contractors for such increased costs. In some cases, additional compensation was arranged by paying the contractor for the overhaul but only for the quantities actually moved in excess of the quantities estimated in the contract. In other cases, the contractor was allowed to place on the road a better standard of material than was originally specified at a higher cost to the Department and a greater return to the contractor. A strict interpretation of the contract would not have required additional compensation to be paid.

We recommend that in future, the Department locate borrow pits and obtain options for the material before tenders are called. Tests should be made to ensure that the material is suitable.

Contractors should bid on the definite understanding that the selected borrow pits will be the source of the material to be used. The bids should be for moving a cubic yard of material a specified distance. This means that if contrary to expectations, the material from the borrow pits should prove unsuitable, new prices can be calculated on the basis of the original bids. Payments to the contractors should be computed by survey methods or by weighing the material actually moved. Greater use of soils tests to arrive at more accurate estimates of granular material required should provide a check on the quantities of material placed on the road.

Payment for crushed stone and gravel

A layer of crushed rock or gravel is required for the road surface or immediately under the surface. The sources of this material in many cases and particularly in Southern Ontario are in private hands. In most instances, special equipment is required to crush the materials to the required size.

This material should as at present be paid for by weight and should be weighed as close to its destination as possible. The Departmental Weighmen who do this work should be closely supervised to prevent the issue of weight tickets for materials

not actually moved. The present regulations call for an Inspector, a Weighman and a Checker to check the quantities actually placed on the road. This regulation has not always been adhered to. We recommend that in future the three men specified should be on duty on every applicable contract.

Control of Contracts

Contracts are awarded for various distances, upwards of ten miles in some cases. There may be wide variations in the terrain covered by a single contract and in the conditions to be encountered in connection with it. Nevertheless, it has been the practice in reporting on work performed to treat the whole of a contract for a stretch of highway, no matter how long, as a single unit.

We believe that greater control could be exercised on larger projects if the estimates and reports were prepared for sections of the total contract rather than the present system of treating the whole contract as a single unit.

Other construction materials

The Department has followed the practice of making direct purchases of the materials required for surfacing and finishing the roads, including

cement, asphalt, fence posts, etc. These materials are purchased for delivery at the nearest railroad siding to the work at prices which include freight. If a contractor wishes to take delivery at some other point, he is entitled to do so. The Department will pay either to the railway or the contractor, the equivalent freight to the railway siding nearest the work. It is the contractor's responsibility to arrange transportation to the actual site of the work. The practice is for the contractors to inform the supplier where and when they wish the materials shipped and the required dates of delivery.

The contractors take delivery on behalf of the Department, but the materials are charged to the job and not to the contractor. At the conclusion of the work, any surplus material is turned over to the Department at the job site. In the event of work being discontinued, either during the winter, or for other reasons, the material is either taken into one of the Department's stores or checked at the site on closing down. It is checked again on starting up.

Difficulties have been encountered in controlling the materials delivered to the construction sites which we believe could be handled

in one of two ways:

(a) The contract could require the contractor to purchase certain of the materials required for the particular contract in which case he would retain custody and control of the materials and be paid for the quantities actually used in the work; or -

(b) The Department could continue to buy materials and turn them over in trust to the contractor. In this event, the materials should be charged to the contractor and not to the particular job as at present. The contractor should be given credit for the materials actually used on the job. On completion of the work, the quantities of materials used should be compared with the original estimates, and any discrepancies enquired into.

In our opinion, the second alternative should be more economical, as it will permit the Department to take advantage of quantity purchasing. Before a change can be made, however, detailed regulations will have to be drawn up and changes made in the terms of the contracts.

Adjustments with contractors

If the procedures recommended in connection with planning the work, awarding of contracts and the payment therof are adopted, we believe it should be possible to hold the contractors to the terms of their contracts in the great majority of cases. There may be some instances, however, where the Department should properly allow some adjustment on a contract because of conditions which were not foreseen at the time it was entered into. In such event, it is suggested that the circumstances should be investigated by the Chief Engineer, who should recommend the amount of any adjustment to be allowed. Such recommendation should then be reviewed by the Deputy Minister, and if approved by him, referred to the recently announced Committee on Construction and Planning for further consideration. If in the opinion of this Committee, the adjustment should be made, the recommendation should be forwarded to the Provincial Treasurer.

THE CHAIRMAN: I think we will recess for five minutes, to give Mr. Gordon a breather.

---Whereupon a short recess was had.

---Upon resuming.

BY THE CHAIRMAN:

Q Will you proceed, Mr. Gordon?

Gentlemen, before Mr. Gordon goes on, there is a letter in the hands of the Secretary, from the Executive Director of the Professional Engineers, which I think should be read now and disposed of.

MR. JOHNSON (Secretary): This is a letter addressed to the Chairman, and it reads:

"Dear Mr. Roberts:

The Association would appreciate the privilege of having an observer attend the meetings of the Select Committee of the House appointed at the recent session to study the organization and methods of operation of the Department of Highways and of which you are Chairman.

Under the Professional Engineers Act, the Association has a dual responsibility, (a) to the public and (b) to the members of the profession. The Department of Highways is a large employer of professional engineers, consequently the profession is affected by any enquiry into the Department and we would be grateful for the opportunity to sit in at your meetings.

Yours very truly,

T. M. Medland,
Executive Director "

THE CHAIRMAN: I think perhaps the Committee should give this formal approval. If it is the wish of the Committee, may we advise the Professional Engineers that they would be welcome to have a representative sitting with us throughout our proceedings.

MR. GRUMMETT, Q.C.: I will so move, Mr. Chairman.

MR. HERBERT: I second that motion.

Motion agreed to.

THE CHAIRMAN: I think also, gentlemen, -- and this seems to be mentioned in this report rather fully, that with respect to these recommendations, that the contractors of Ontario, who know all about this, might come here and give us the benefit of their views, if they have not already been consulted. I think if there are any representatives of the contractors here, that is something in which they should take a very lively interest and we will be glad to hear any views they may wish to express before the Committee, at the proper time.

One of the Committee members, Mr. Herbert, suggests I ask if there is anybody here representing any contractor, who might wish to be recognized as representing anyone in that capacity.

MR. R. D. JENNINGS: I am here on behalf of the contractors, Mr. Chairman.

THE CHAIRMAN: Perhaps you might pass that information on, to any others with whom you may be associated.

MR. JENNINGS: . I am representing the Standard Paving Company, and I will be very glad to pass on that recommendation, Mr. Chairman.

THE CHAIRMAN: The County of Brant has sent in a letter in relation to a certain matter which they would like us to look into. I do not think we want to interrupt our proceedings at the moment, but at some stage, when we have cleared some of these other matters, that question can be disposed of.

Now, Mr. Gordon, will you please continue.

THE WITNESS: I was just reaching the top of page 26:

Policies of the Municipal Engineering Branch

In the Province of Ontario responsibility for the construction and maintenance of roads is borne by counties, townships and organized and unorganized municipalities.

I have to use that term, I am afraid, as it occurs all the way through the report.

The Highway Improvement Act gives the Minister of Highways the right to assume certain roads as King's Highways and the Province then becomes responsible for

the full cost of construction and maintenance of such highways. All other roads are left under the control of the local authorities and the Province contributes towards their construction and maintenance.

The council of a county has authority under the Act, subject to certain conditions, to assume roads in any municipality in the county in order to improve them and establish a county road system. Authority is provided to appoint a County Road Committee to direct the work done on the county road system and to appoint, subject to the approval of the Minister of Highways, an engineer as County Road Superintendent to administer and manage the county road system. The Minister of Highways is authorized to pay the county an amount equal to 50% or, in the case of a bridge or culvert, an amount not exceeding 80% of the amount of expenditures properly chargeable to road improvement, provided such expenditures have been approved by by-law of the county and have the approval of the Minister. The Act contains provision for the cooperation of cities or towns with county councils to deal with special problems.

The Lieutenant-Governor-in-Council upon application of the council of any county, having a county road system, may direct that a Suburban Road Commission be appointed which may designate roads or portions of

roads in the county road system as suburban roads. Each city or town within the county then contributes to the construction and maintenance of such roads. Work on such roads may be carried on under the County Road Superintendent or under the direction of an engineer appointed for the purpose. The expenditures on such roads are borne 25% by the county, 25% by the city or town and 50% by the Province except in the case of bridges and culverts, where the Minister may direct the Province to pay 80%, the balance being divided between the county and city or town.

The council of every township is required to appoint a Township Road Superintendent who lays out and supervises all work and inspects all roads in the township. The Minister of Highways is authorized to pay 50% or such greater portion as he may deem requisite of the salary and expenses of such Superintendent. The Department requires townships to submit approved by-laws covering the estimated expenditures for construction, improvement or repair of roads. The council of the township submits detailed statements of the expenditures as the work proceeds and the Minister authorizes payments of 50% of the amount of the expenditures properly chargeable to road improvement.

The Minister may, having regard to the economic

condition of a township and the adequacy of its plan of road improvement, pay to the township in the case of a bridge up to 100% of the expenditures and in the case of other road improvement any percentage up to 80% of the expenditure.

In any part of Ontario where there is no municipal organization, the Minister may arrange with the Road Commissioners elected under the Statute Labour Act, or others, for the construction, improvement, maintenance or repair of roads and may direct that a portion of the costs be borne by the Province.

The Minister may designate as a "development road" any road or proposed road which he may deem expedient to construct, improve or maintain in order to promote or maintain settlement or development in any part of Ontario. Where the road is under the jurisdiction of the council of any municipality not being a city or a separated town, the Minister may arrange to have the work done and direct that part of the cost be borne by the Province. Under these circumstances the road remains under the jurisdiction of the council of the municipality. Where the road is situated in territory without municipal organization the Minister may direct that a part of the cost be borne by the Province and the road remains under the control of the Department.

The councils of cities, towns and villages may submit for approval, by-laws covering their estimated expenditures for the current year on the construction, improvement, maintenance and repair of the roads or streets. On the submission of statements covering approved expenditures the Minister may authorize the payment of 33-1/3% of such expenditures in the case of a city or separated town, and in all other cases 50%. Sections in the Act provide for special arrangements where a street in a town or village is a connecting link between portions of a King's highway.

The Municipal Engineering Branch of the Department of Highways is responsible for approving the work to be carried out and the payment of the subsidies outlined above. In the case of townships the Branch supervises the actual work. An audit is made of the actual expenditures by the municipalities. The greater part of the time of the engineers in the Branch is taken up with liaison with county councils and County Road Superintendents; supervising and providing technical assistance to Township Road Superintendents, and directing the work carried on in areas where there is no municipal organization, or in constructing development roads.

A number of matters arising out of the Highway Improvement Act which influence the policies and

organization of the Municipal Branch are discussed in the following pages.

Budgeting for subsidy payments

As described above, various councils are authorized to submit to the Minister by-laws covering their estimated expenditures for road improvements; after approval by him, authority is granted to make payments at varying percentages to the councils to reimburse them for their expenditures. There are wide variations in the conditions throughout the Province, and the various councils devote different proportions of their budgets to road work. During recent years the total amount of the requests for funds from all councils throughout Ontario has been considerably in excess of the aggregate sum which the Government was willing to pay in subsidies. In some cases the Minister has not approved the by-laws submitted, because the expenditures called for were excessive.

This procedure has created a problem in the Department in attempting to budget the amount required for subsidies and in distributing the available amount equitably amongst the various councils. We understand that in some instances where only part of the funds covered by by-laws submitted by the councils were approved due to the impossibility of granting all

requests, the councils proceeded with the work in any event, and then submitted requests for payment. In other instances actual expenditures were less than the approved by-laws. The surplus funds arising in this way were used to pay additional subsidies to the councils who had exceeded their authorized expenditures. We suggest that in future no payments should be made on account of unauthorized expenditures. Inevitably there will be a few exceptional cases which should be given special consideration, but the general rule should be adhered to.

We suggest also that procedures be developed for fixing the maximum subsidy which will be paid to any municipality in any year having regard to the population, property assessment, miles of road presently in use, extent and nature of geographical area, the percentage of its own budget which is earmarked for road work, amount of subsidies previously paid, etc.

Increased subsidy to Townships

The Minister has the authority, having regard to the economic condition of a township and the adequacy of its plan of road improvement, to increase the normal subsidy for road improvement from 50% up to 80% of the expenditures, and in the case of a bridge up to 100% of the expenditure. In the past this authority has been

exercised after a study of the conditions existing at the time the increase was made. Once an increase in the normal subsidy has been authorized there is a tendency for it to be continued from year to year as there is no procedure for re-appraising the situation at a later date to see if conditions have improved or changed.

We suggest that an attempt be made to develop procedures for determining the amount of additional subsidy to townships and that this be done annually. If this practice was followed, any additional subsidy would vary from year to year and thus would be less likely to be considered by the township as a fixed grant.

Township Road Superintendents

A great deal of the time of the Municipal Engineers is spent supervising the work of the Township Road Superintendents and providing them with technical assistance. We suggest that in many cases this supervision and advice could be more easily provided by the County Road Superintendent who must be a qualified engineer under the provisions of the Highway Improvement Act.

As previously pointed out, the Minister is authorized to pay 50% or more of the salary and expenses of the Township Road Superintendents, exclusive of clerical assistance. One of the difficulties under

which the Township Road Superintendents operate is their lack of clerical assistance. We were informed that a great deal of their time is spent in clerical work rather than in supervising the work on the roads. We suggest that, if necessary, the Highway Improvement Act be amended to provide for the payment of necessary clerical assistance for the Township Road Superintendents as well as for their other expenses.

BY MR. GRUMMETT, Q.C.:

Q Mr. Gordon, you understand that in suggesting that the County Road Superintendent supervise the township roads, it is not possible in Northern Ontario? We have no District or County Superintendent in the north.

A I did suggest, I think, that it would have to be carefully studied. We feel it is something which should be looked into and considered, but we did not feel we necessarily had the right answer. From an organizational point of view, it would be much better, but whether it is practical or not, I cannot tell you.

Statute labour

In some parts of the Province where there is no municipal organization the residents are required to provide a number of days labour on the roads under the Statute Labour Act. In many areas a plan is in use whereby the labour is commuted, i.e., the equivalent in

money is paid to the Road Commissioners and they in turn employ local labour at the going rates of pay to carry out the work required. It has been found that work carried out in this manner is more efficient and the plan should be adopted wherever possible.

## Service and Maintenance Policies and Practices

A number of matters in connection with the Department's service and maintenance policies and practices are discussed in the following pages.

### Purchasing

Requirements for materials, stores and equipment arise either in the Divisions throughout the Province or at Head Office as a result of the award of construction contracts. Purchasing has been carried out on a centralized basis and maintenance materials are either shipped direct to the Divisions or stored centrally until required. The Divisions have been authorized to purchase locally up to a maximum of $200 for any one item and for larger amounts in the case of emergencies.

We believe the policies of the Department with regard to purchasing have been generally sound. We suggest, however, that some of the practices and procedures could be improved with a view to providing a better service from the central stores and economies in operation.

In this connection we suggest that detail studies should be made of the following matters:

(a) The advantages which might accrue from the operation of regional stores rather than one central store and the relative costs of such a change;

(b) The desirability of routing divisional requisitions for catalogue items direct to central stores rather than first passing them through the Purchasing Section;

(c) The possibilities of speeding up deliveries from central stores;

(d) The advantages which might be gained from estimating total maintenance requirements for materials and supplies for a specific period; and then placing orders for such requirements with the manufacturers with instructions to make deliveries direct to the Divisions as the materials, etc. are required by them;

(e) The practicability of estimating the total requirements of construction materials for all construction projects and calling for tenders for such materials. This should result in economies over the present system of having manufacturers make quotations without knowing

the quantities required by the Department. The suggested procedure would only be possible as the construction planning improves.

We also suggest that the control of local purchases should be the responsibility of one man in each Division.

Stores

The policies in connection with maintenance stores have been reviewed in recent years; the inventories have been reduced; and the control over stores has been improved. Improvements have been made also in the layout of stores and in the physical facilities for handling them. This program has made considerable progress but there is still much to be done.

Property

The Property Section is in process of being re-organized but it is still badly behind in its work of purchasing, recording and making settlements for properties taken over by the Department. Delays in settling with property owners have been unnecessarily long which has increased the volume of work. The records of property owned by the Department have fallen in arrears and in some cases properties which should be sold have not been disposed of.

In the past in many instances it has been the practice to make an offer for a piece of property and then to negotiate the final purchase price. Considerable time is spent in these negotiations, and property owners have become accustomed to expect more for their land than the amount of the Department's original offer. We suggest that in future the Department should make a fair appraisal of property to be acquired; should make an offer for it; and if the owner does not accept such offer, should then proceed to expropriate. It has been found elsewhere that if this procedure is followed, property usually will be purchased at the price offered without the necessity of expropriation. This is to be expected provided the Department's price is fair in the first instance and therefore there is no advantage to the owner in forcing expropriation proceedings.

The Department should speed up the payment for properties purchased or expropriated and if necessary employ independent Ontario Land Surveyors to assist with their registrations. Present procedures should be reviewed in order to simplify the processing of property transactions.

BY MR. JANES:

Q That would be pretty hard on the municipalities.

They cannot get certificates now to do their work? We have been waiting four months.

A Somebody has to do without them. I think that is the answer to that one.

Vehicles and mechanical equipment

The Department owns and operates a considerable amount of complicated road equipment in addition to a large number of trucks. There are a number of problems in connection with this equipment which require study and decision. These include the following:

(a) The practice of the Department is to purchase equipment from several different manufacturers. This means that it is necessary to stock spare parts in each Division for each manufacturer's equipment, involving a larger investment in spare parts than would be necessary if it were practicable to standardize on equipment. It means also that it is more difficult to obtain and train personnel to maintain such a variety of equipment. It is probably necessary and desirable for the Department to purchase equipment from several manufacturers in order to keep up-to-date with current developments in this important field. However, we suggest that the present difficulties could be

largely overcome if each Division was equipped with the products of one manufacturer to the extent that this may be practicable. We suggest that, in future, expensive road machinery should not be purchased, except on an experimental basis, until detailed studies have been made to see if it can be economically justified.

(b) Some of the vehicles used by the Department are owned by it, while others are rented on a daily, weekly or monthly basis. We suggest that a study be carried out to determine the relative costs of the two procedures and their relative advantages, in view of maintenance difficulties and seasonal variations in requirements. This study should enable decisions to be reached as to the requirements for Department-owned vehicles, the maintenance facilities required in the Divisions and the regulations required in connection with rented trucks. Regulations governing the hiring of vehicles should be developed, and the necessary authority delegated to the Division Engineers.

(c) During recent years equipment has been purchased by the Department and held for the use of

groups of municipalities where individual municipalities did not have sufficient demand to justify owning specialized equipment. This equipment is under the control of the District Engineers in charge of municipal affairs, and is rented to the municipalities at the estimated cost to the Department less 30%. We recommend that this earmarking of equipment be discontinued. If it is desirable, the Department's regular equipment can be made available to the municipalities. In this event we suggest that the basis of the rental should be reviewed.

(d) It has recently been the policy of the Department to sell used trucks by tender or auction rather than to trade them in on replacements, as has been done with specialized equipment. This policy was sound at a time when vehicles were in heavy demand and the supply limited, but we suggest that the policy be reviewed in the light of current conditions, in order to ensure that new trucks are obtained at the lowest possible net cost.

Snow removal and sanding

The requirements of modern traffic have

created a demand to keep main traffic arteries open at all times and to take prompt action to deal with the ice conditions on the roads. The Department has provided a high standard of service throughout the Province. This is accomplished in different ways; in some places Departmental staff are kept available to move into action as soon as they are required; in other places the work is performed in whole or in part by contractors.

BY MR. OLIVER:

Q What is your thinking behind that statement?

A That it should be reconsidered.

Q That all the standards should be reviewed? Did you find them inadequate?

A I think perhaps they are too high.

Q The standards are too high?

A Yes.

Q They should lower the standards?

A Yes. I am not sure, until a study has been carried out. I do not think anybody would know without further study, but it is a question of whether the costs of the standards we now have, are justified.

BY MR. WREN:

Q You are speaking about the King's highways?

A Yes.

BY MR. OLIVER:

Q I do not quite follow you. Do you mean we should not take all the snow off or what? It is pretty hard to follow.

A What I have tried to mean is that the speed in taking the snow off has quite a bearing on the costs. If they are going to keep people, trucks, sanders, and so forth, standing by in the winter months, to move into action on an hour's notice, it is much more expensive than to give them three or four hours' notice. The standard would go down. It is a question of weighing the costs against services.

BY MR. HERBERT:

Q Do you think that three hours would reduce the costs appreciably? Do you mean we should hire private contractors, instead of having the Government remove the snow?

A I think we should find the most economical way of doing the job.

The expenditures on this work are considerable. We suggest that this whole matter should be reviewed and the standards of service provided reconsidered. The standards of service should depend upon traffic densities. The ways in which the work should be carried out should be decided having regard both to the standard of service and

to the relative costs of providing it.

Gasoline tax collection

The Chief Inspector Gasoline Tax is responsible for the collection of gasoline tax; the issue of licenses and permits for gasoline handling; the processing of gasoline tax refunds; and for auditing the records of the oil companies and wholesale outlets. The taxes collected by the Chief Inspector Gasoline Tax are turned over by him to the Chief Cashier of the Treasury Department for deposit.

We suggest that gasoline tax collections, etc. might well be made the responsibility of the Treasury Department. If this proposal is acceptable we suggest that the complete unit under the direction of the Chief Inspector Gasoline Tax should be transferred from the Department of Highways to the Treasury Department.

BY THE CHAIRMAN:

Q Just on that point, Mr. Gordon: I do not want to put words into your mouth, but from the way it reads, I take it you are satisfied with the personnel of the Gasoline Tax Department, as at present constituted?

A Broadly speaking, as far as I can see it, it is operating effectively.

Q This would be just a transfer of the whole staff from one department to another?

A Yes.

Accommodation

The accommodation available to the Department in Toronto and in some of the Divisions is not adequate for present requirements and furthermore is not being used to the best advantage. This has contributed to the difficulties under which the Department has had to operate. We suggest that a study be made of the space requirements of the Department and of the Motor Vehicles Branch; the best way of utilizing the space which is presently available; and the amount of additional space which is needed.

Accounting procedures and controls

We have not made an examination of the accounting procedures and controls presently being used by the Department. It will be necessary to revise and amplify these procedures and controls when the proposed form of organization has been approved.and the proposed changes in administrative policies and practices decided upon. At that time we recommend that a detailed study be made of the accounting and other information which will be required by the senior officials of the Department to properly control its operations.

Personnel Policies

The total number of employees on the staff of the Department in the middle of March 1954 was approximately 6,500 of whom about 1,500 are employed at Head Office or work out of Head Office. As already pointed out the Department has been under-staffed and has had difficulty in obtaining qualified men. In the opinion of Departmental officials this is because salaries are too low to attract the men required. We are not in a position to express an opinion about the salary scales themselves pending a detailed study of the rates.

BY THE CHAIRMAN:

Q You use the words "in the opinion of Departmental officials"; have you any opinion to express yourself?

A May I read the next line.

"We are not in a position to express an opinion about the salary scales themselves pending a detailed study of the rates."

Q Are you planning to make any studies of the present salaries?

A As to their adequacy? Yes. We have that in mind. I think that is an urgent requirement.

BY MR. OLIVER:

Q It is surely the responsibility of the

administration to make sure its employees are paid an adequate salary.

BY THE CHAIRMAN:

Q I suppose all we can do is to recommend that it be done. Perhaps we had better get a little more information on that.

A I think that is covered more fully later on.

THE CHAIRMAN: All right. We can come back to that, if necessary.

THE WITNESS: We are not in a position to express an opinion about the salary scales themselves pending a detailed study of the rates. However, it is clear that a considerable part of the present discontent within the Department and of the difficulties experienced in obtaining qualified men is caused by the absence of personnel policies suitable to an organization of this size and of adequate machinery for the administration of such policies. The organization required to administer the personnel policies of the Department will be discussed in a later section of this report. At this point we propose to discuss some of the problems which have created difficulties and the policies which should be adopted to correct them.

Casual employees

Employees of the Department are subject to

the general rules of employment applicable to all Government Departments. These rules provide for three classes of employee; "temporary", "permanent" and "casual". As a general rule, civil servants are first appointed for a probationary period of one year and after proving their ability, the appointment is made permanent. Permanent employees are entitled to appeal to the Civil Service Board of Review in the event of dismissal, and to become members of the Public Service Superannuation Fund.

The intention behind these rules is that casual employees should be engaged by the Department for work of a casual, intermittent or seasonal nature. For that reason they are paid at prevailing hourly, daily or weekly rates of pay. Frequently such rates are considerably higher than the salaries paid to regular employees doing similar work. Casual employees are not classified as civil servants, and do not enjoy such benefits as security of tenure or superannuation privileges. Casual employees appointed after March 1, 1948 are not entitled to have their period of casual employment considered for superannuation, if eventually they become permanent employees.

We were informed by officials of the Department that at the present time only about 20% of the staff of the Department are permanent civil servants. The balance

are employed as casual staff, although in fact many of them have been working for the Department on a full-time basis for some years.

The Regulations to The Public Service Act provide that the following employees of the Department of Highways are "designated appointees" who shall not be civil servants, and, therefore, must be engaged as casual staff:

| | |
|---|---|
| Labourer | Instrument man |
| Unit Operator | Resident Engineer |
| Patrolman | Road Superintendent |
| Handyman | All Apprentices |
| Road Foreman | Apprentice Draughtsman |
| Messenger | Apprentice Sign Painter |
| Warehouseman | Apprentice Mechanic |
| Road Inspector | Painter |
| Axeman | Weighman Checker |
| Chainman | Cleaner |
| Rodman | Ferry Operator |
| Levelman | Deck Hand |
| Bridge Operator | |

BY THE CHAIRMAN:

Q In regard to that list; is not an instrument man a very important man in this set-up?

A As I understand it, the instrument man is the man on a particular contract who is responsible for the survey work, and based on his survey work, the quantities are calculated for payment to the contractors. So he has a responsible position.

Q Dealing with that one category, is there any apparent reason why he should not be a civil servant?

A The only reason I know of is the regulations in the Public Service Act. I do not know when they were changed last.

MR. MAPLEDORAM: Who do you classify as a civil servant?

MR. GRUMMETT, Q.C.: Have you set up a category classified as "civil servants"?

THE WITNESS: We have the suggestion on that need for categorizing the people, which we will come to one the next page.

BY THE CHAIRMAN:

Q Did you discuss the reasons why some of these people are not permitted to be civil servants?

A No.

MR. JANES: Many of them would be over-age.

THE CHAIRMAN: I would not think any instrument man would be over-age.

THE WITNESS: There are a great many of these people who are hired on a temporary basis.

BY THE CHAIRMAN:

Q I notice the words "instrument man", and then right below that is "resident engineer". Do you deal with that later?

A We say what we think should be done,on the next page.

Q But you have not commented on why they should not be permitted to become civil servants? I was wondering if there was any reason we do not see at the moment, why there is that distinction. There is nothing of which you know?

A No sir, nothing.

Many of those employed in the above categories are temporary or seasonal employees and are properly not eligible for civil service status. However, as a result of the expansion of the Department's activities and the increased importance of keeping the roads open in the winter, a considerable number of the personnel in these categories are now engaged on a full time basis.

The Department has greater freedom in regard to salaries for casual employees who are paid out of the Highway Reserve Account as provided under Part X, paragraph 107, of the Highway Improvement Act. Employees can be taken on at higher rates of pay than would be possible if they were employed as regular civil servants, and their salaries can be reviewed and increases can be authorized twice a year, as compared with civil servants whose salaries are reviewed only once a year.

BY THE CHAIRMAN:

Q Perhaps that is part of the answer there?

A That could be part of the answer.

A practice has developed of taking on new employees under the casual staff classification and paying them at prevailing outside pay rates until they have sufficient experience to fill a more senior position at the equivalent salary for a permanent civil servant. As indicated above, the years of casual employment service provide no credit toward superannuation benefits.

We recommend that the Department's policy in connection with the employment of casual staff should be changed.

BY THE CHAIRMAN:

Q May I interrupt you again on that? Have you observed from what you have seen, that it would be an advantage for most of these people to be classified as civil servants, rather than not?

A Let us put it this way; I do not mean that all of the people in those categories should be taken on as civil servants, but I do think some of them should. I would like to see some system whereby some of them could be taken on, on a permanent basis, but, at the same time, not denying the Department the right to take them on in a casual way, if the Department can only get them on that basis.

BY MR. COLLINGS:

Q I had a chap in to see me, who is a plumber. He is not a permanent man, but is casual. I asked him why, and he said, "I got Union wages where I was working, whereas if I went on the permanent staff I would not get that benefit". He has enjoyed the Union rates of pay all through the years, but now he wants to be made permanent.

A I think there is a problem there, where a man has reached the age of retirement, and there is not much you can say for him.

MR. JANES: Some of them could not go onto the pension plan. Most of them would be over age.

MR. OLIVER: Then they should put younger men on.

BY MR. MAPLEDORAM:

Q Do you think this has caused some bad feeling in the Department, that some of them think they are not getting justice?

A I think there is discontent in some of the present staff, because they feel they never can get to be members of the civil service, and therefore cannot receive a pension.

BY HON. MR. PORTER:

Q Your suggestion would be, I take it, that

instead of having the regulations, as they now are to include these categories, the Department should be entitled to put some of them on from time to time as civil servants, if they so desire?

A The law needs bringing up to date, in view of current conditions.

BY MR. COLLINGS:

Q Where they are on full-time?

A Yes. I think our recommendation sets it out pretty well.

A minimum establishment of permanent employees should be agreed to for Head Office and Division staffs. This minimum establishment should be filled by permanent civil servants and no restriction as to occupational classification should be imposed. Employees who are actually engaged in work that is of a casual, intermittent or seasonal nature should continue to be excluded from the permanent status. The permanent staff needs of each Division should be reviewed at regular intervals and appropriate adjustments made to the minimum establishments as they are required. We recommend also that the regulations to The Public Service Act should be amended to permit certain categories of employees now excluded to be members of the permanent Civil Service.

Administration of salaries and wages

The following examples are submitted in order to illustrate some of the difficulties which have arisen as a result of present policies regarding salaries and wages:

(a) There have been delays of from six to eight months and even longer in processing salary increases consequent upon routine promotions.

(b) In some cases a man in a supervisory position may be paid a lower salary than some of his subordinates.

(c) The Civil Service Commission is required to approve and set wage rates for new positions. The expansion in the Department has placed a heavy load on the Commission, as it is presently organized, with the result that there have been long delays in obtaining approval for such positions. In some cases, in order to avoid delay in getting approval, men have been engaged for a new position, but classified under some other category which previously had been approved and established.

(d) We were informed that in a number of Divisions it was impossible to hire workers at the hourly rates authorized for casual labour. To over-

come this difficulty the Division Engineers paid the employees at the authorized rates for a greater number of hours than those actually worked. Payrolls were prepared, certified and submitted on the basis of the stated hours of work rather than actual hours.

We recommend that a survey be undertaken of every position in the Department which should include:

(a) A description of the work involved in each position throughout the Department;

(b) The ranking of positions as to their relative responsibility, etc. and recommendations as to any necessary adjustments in salaries and wages;

(c) A detailed organization manual setting out the duties and responsibilities of each position;

(d) Drawing up of a detailed establishment.

This should provide the information required to administer personnel policies throughout the Department, and should enable the Civil Service Commission to control such policies.

BY THE CHAIRMAN:

Q Just before you leave that subject: Your item "(a)" on page 37:

"There has been delays of from six to eight months and even longer in processing salary consequent upon routine promotions."

A promotion would automatically carry an increase. It would not be a question of whether the individual should or should not get the increase. As I understand it, I think the promotion automatically carries the increase.

A Yes.

Q It is hard to understand why there should be any delays of that sort?

MR. COLLINGS: It should be retro-active, as I understand it.

BY MR. OLIVER:

Q These reference which you made, Mr. Gordon, to billing the Department for more hours than were actually worked; would you say, from your examination, that is an accepted practice?

A No, I would not. I think it was going on in one or two places.

Q You did not examine all the places?

A We did not examine all the places.

Q But in the places you did examine, it was going on?

A No, definitely not. We only came across it in two places in the Department, of which I know.

Q There were no prosecutions in that connection?

A Oh, definitely not. It was being done. The

person who was doing it, was doing it because he thought it was in the best interests of the Department of Highways.

Q His generosity was coming to the fore?

A Not necessarily. He could not get the men they required to do the work. He had a job of work to do, and he did it in that way.

HON. MR. PORTER: That happens in the best regulated families.

MR. GRUMMETT, Q.C.: To a very high degree in the Department.

THE WITNESS: Recruitment and training.

The problems which the Department has encountered in building an adequate staff of technical personnel have been increased by the lack of an adequate program for selecting employees and for developing their qualifications after they have been employed.

Recruiting appears to have been carried on almost entirely on a basis of attempting to meet emergency situations as they arise. Because of shortages of staff who are qualified to select new employees, interviewing of applicants has been limited to little more than a rough screening process. New employees have been posted to open positions primarily on the basis of the urgency of field requirements and without

adequate consideration of the individual's aptitude, qualifications and training for the specific job.

Similarly, no organized plans or facilities have been set up to train non-professional engineering or clerical employees to enable them to develop the skills needed to handle jobs which offer higher pay opportunities. Although steps have been taken in some parts of the organization to rotate junior technical personnel through a variety of jobs to provide them with the knowledge and experience needed for more responsible positions, there is no program of this type in general use. Certain examination tests are provided for the purpose of upgrading clerks and junior instrument men etc., but no formal assistance has been offered that will help to prepare employees for these examinations.

The Department should have a staff which can keep in touch with the universities and technical and commercial schools in order to inform them of the positions available, and provide details of terms of employment and opportunities available. The Department should seek a steady flow of applicants for positions in order to select those men best suited for the existing vacancies. Policies and salary scales should be designed to encourage men to join the Department as a career, rather than for a few years experience prior to moving on.

The importance of sound policies and procedures for training and promotion cannot be overstressed in a rapidly expanding organization. Training courses should be available to assist unqualified men to increase their knowledge, and, therefore, their usefulness to the Department. Plans should be developed to ensure that individuals receive as wide an experience as possible to fit them to assume greater responsibility.

BY THE CHAIRMAN:

Q You are referring there to unqualified men already in the Department, when you say that class should be made available?

A Yes.

BY MR. MAPLEDORAM:

Q Mr. Gordon, that means the Division Engineer could recommend people to take these courses, or would that be done in the Head Office?

A I have not thought through how you would do the training, whether you could send out a team to do the training in the Division, which means moving from Division to Division, or whether you would hold periodic courses at Head Office.

Acceptance of favours

The practice of many of the contractors in the road building industry in Ontario has been to give

presents and do other favours for Departmental employees. Quite probably this practice has grown up over the years and initially it may have been confined to taken gifts at Christmas or on other occasions. Various companies however have tried to outdo each other and the monetary value of such favours has increased. This creates a difficult situation for Departmental employees, and is costly to the contractors, who presumably would like to discontinue the practice if their competitors would do likewise.

BY THE CHAIRMAN:

Q You are make a very stringent requirement there. Do you feel that the seriousness of openings which that sort of practice permits is such that you should go that far?

A I think we should.

BY MR. WREN:

Q Why should we be dealing in the future? If these things have been going on in the past, why do you not recommend that past acceptances of favours --

MR. MAPLEDORAM: How could you go back 20 years?

MR. GRUMMETT, Q.C.: How would you carry on the Department, if you did?

MR. WREN: You could go back quite a piece.

THE WITNESS: I do not know just how to answer that question.

BY MR. WREN:

Q You have been inferring these employees have been accepting favours?

A If the practice has been developing over a period of years, and has been an accepted practice, I think it would be completely wrong to fire some Highway employees for having taken a cigar, but, if you issued regulations that they should not take cigars, you could control it.

(Page 362 follows)

BY MR. WREN:

Q Do you know of any incident in your investigations, where safety deposit boxes have been opened, to see what might be considered as "favours", or did your office investigate that?

A I do not think I can make any statement on that.

Q In fact, your Company did not do it?

A I certainly directed any work that was done, but I still cannot make any comment about it.

Q Why can you not make any comments?

A Because any information we obtained was in the course of looking into criminal activities, and I understand that information cannot be given out, except to the court.

Q You cannot answer my question as to whether there have been or have not been cases where you found incidents where there was a document in a safety deposit box, which might be regarded as a "favour"?

A I do not see what safety deposit boxes have to do with this, but I cannot say anything now about the results of what we have found, as a result of search warrants.

Q I am not asking you for names, but I am asking if that sort of checking was done.

A That was done.

Q Where there any incidents found -- without naming names?

A I think in view of the charges before the courts, I would rather not answer that question.

MR. WREN: I think that should be answered.

HON. MR. PORTER: I do not think so. This was information obtained under search warrants.

MR. WREN: We are not asking for the names of anyone.

HON. MR. PORTER: No, but you are going one step nearer to it.

MR. WREN: What is the limit of our power?

HON. MR. PORTER: You are not entitled to ask about anything that was found under search warrants.

MR. WREN: We are forbidden to ask questions about anything found with search warrants?

HON. MR. PORTER: We will have to go about it independently, and subpoena witnesses ourselves. We cannot ask Mr. Gordon to divulge information which has come to him as a result of search warrants.

BY MR. WREN:

Q May I ask this question? Were there any examinations made, without search warrants, to enquire

into these conditions?

A I think the answer to that is "No".

Q You did not check any person, firm or place for gifts or gratuities, without search warrants?

THE CHAIRMAN: Do you mean if anybody volunteered information?

MR. WREN: They were checking, and I asked if there were any which were checked without search warrants. Let us say they were checking --

BY MR. OLIVER:

Q I think the question is obvious, how did you determine that this practice existed?

A From statements given to me by Departmental employees.

Q You did confirm it by statements by Departmental employees?

A Yes, there is no mystery about that.

Q There is not?

A No.

BY MR. WREN:

Q I do not know --

A I am talking about what I consider excessive Christmas presents.

Q What value would you place as "reasonable" for Christmas presents?

A That, of course, is a matter of opinion.

HON. MR. PORTER: Yes, it is like the classifications; it is a matter of opinion.

BY MR. WREN:

Q Street certificates, or bonds?

A Well, you may start with cigars and end up with a radio. Where will you draw the line?

THE CHAIRMAN: I would say if any member of this Committee has positive and concrete evidence of anything which he thinks should come before the Committee, which is not before the courts --

MR. WREN: We are gathering information. Mr. Gordon has said he obtained information from statements made to him, that there were favours given.

THE WITNESS: In talking with certain of the staff in the Department, they told me on occasion they had been embarrassed by people trying to thrust presents on them, and it is a very, very difficult thing when that happens. You either accept it, or when you think the amount was a little more than you should accept, you return it, and you advise the person who offered it to you, possibly in good faith, that you cannot accept it.

The purpose of our recommendation is that we think it is embarrassing for the Departmental

employees, and it would be better to cut it out.

BY MR. OLIVER:

Q You have no figures to indicate how many were returned?

A No, I am not speaking of specific items.

BY THE CHAIRMAN:

Q You are not speaking of any substantial amounts?

A That is right.

BY MR. WREN:

Q I will ask the question again for clarification, and to be sure that I understand it. You found no incident of valuable gifts or gratuities being offered, which were not under the search warrant procedure. . I want you to be very careful in answering that.

A I am being very careful in answering that. I think my answer must be that I have heard of gifts given, not having had a search warrant.

Q Would they be in the form of automobiles or street certificates, or bonds -- something valuable?

A Something valuable, yes.

BY MR. OLIVER:

Q Like a car?

A No. I am not thinking of amounts of that size.

BY MR. WREN:

Q You do know of incidents which did not come under this search warrant procedure?

A Yes.

BY MR. JANES:

Q Just hearsay, or do you know it?

A I think I know it.

BY MR. WREN:

Q That information was given to you by those whom you consider to be reliable people?

A Yes.

Q And what did you do with that information when you received it?

A I did not receive it directly. It was not given to me directly.

Q Did you make Mr. Cotnam, for instance, aware that you had this information?

A Yes.

Q He was made fully aware of the facts as you knew them?

A Yes.

BY MR. OLIVER:

Q You suggested yourself that the practice existed to some extent, at least, that presents were given, and the presents which were given were of

substantial value?

A In my view, they were what you might consider normal Christmas gifts.

BY MR. JANES:

Q It is your opinion they were given in the hope of gain?

MR..OLIVER: Oh no, surely not.

THE WITNESS: It is impossible to answer, as far as I am concerned.

BY THE CHAIRMAN:

Q You are recommending that gifts of any nature be prohibited?

A That is right.

BY MR. WREN:

Q What would you call a "Departmental employee"?

"The practice of many of the contractors in the road building industry in Ontario has been to give presents and do other favours for Departmental employees".

How far would that go? To what rank in the Department would you refer?

A What do you mean?

Q Would it go to the Chief Engineer level or any engineer?

A I think it might go to any level.

Q As high as possible?

A Yes.

THE CHAIRMAN: Will you now proceed then, Mr. Gordon?

THE WITNESS: Yes, Mr. Chairman.

We do not believe there can be any half measures in a matter of this kind, and if the situation is to be controlled, the whole practice should be stopped. We recommend that all Departmental employees be informed that in future no favours of any kind are to be accpeted and that any infringement of this regulation will result in instant dismissal, quite apart from the possibility of the employee becoming liable to criminal prosecution. The regulation should be rigidly enforced regardless of who is involved or what the amount may be.

We recommend also that the pre-qualifications regulations should contain a clause providing that any contractor found offering a present or other favour to a Departmental employee will automatically become ineligible for any further work. This regulation should also be rigidly enforced.

BY MR. WREN:

Q Are you not prepared to recommend that some contractors be prosecuted for offering gifts?

HON. MR. PORTER: I do not think that is a matter for Mr. Gordon.

THE WITNESS: That is something which is quite different.

Expense Allowances

There is considerable irritation amongst the staff in the field in connection with the present regulations governing expense allowances. We understand that the regulations which were in effect during the last few years had been abused by certain members of the staff, and as a result, new regulations were recently put into effect which are much stricter. While this is a relatively unimportant point, it is a matter which is causing dissatisfaction and we suggest it should be looked into at the first opportunity.

---The witness retired.

MR. COLLINGS: Mr. Chairman, it is now five minutes to five.

(page 371 follows)

THE CHAIRMAN: We have now come to "Organization", Part III.

It was the thought that the Committee sit three days this week. I would think, from looking at this, (indicating), that probably tomorrow morning will pretty well finish Mr. Gordon's presentation, at the rate we have been going so far. Then there were other matters we have on the proposed agenda, and I think we have work for three full days ahead of us this week.

MR. OLIVER: What is the proposed agenda?

THE CHAIRMAN: I thought that following this report, we would ask the senior officials of the Department of Highways for certain information to be brought to the Committee, in relation to their work, and also in relation to any matters which the Committee might like to bring up.

MR. WREN: May I ask a question of procedure? In regard to calling witnesses, what is the provision for paying their expenses? What is done in that regard?

THE CHAIRMAN: I am not quite clear on that. Before we go on with that, the Leader of the Opposition (Mr. Oliver) has asked me something with which I think I would like to deal. My answer to

you, Mr. Oliver, --

MR. OLIVER: What is the purpose of having the senior highway officials at this time, Mr. Chairman?

THE CHAIRMAN: One thing, as I mentioned earlier, was that the summary given by Mr. Cotnam in regard to contracts, the actual amount of the tenders and the completed figures -- in order to have a proper understanding of them, perhaps some explanation should be given by somebody as to how those differences arise. That is one thing.

MR. COLLINGS: I think that should be done early and soon.

MR. OLIVER: Except for this, that Mr. Cotnam said this morning his investigation is not complete.

HON. MR.PORTER: That was in connection with the report he made this morning. There were certain figures there of "over-runs", as they call them, and it was suggested that probably Mr. Millar could explain how those were made up. That was one thing.

THE CHAIRMAN: Yes, that was one thing. And Mr. Millar, I think, will be the one to call to do that. He is here, and probably is the best generally informed man on that matter.

MR. OLIVER: It seems to me if we have the

Highway officials here, they will be here in the capacity of trying to answer the statements made by Mr. Cotnam. If we have Mr. Gordon's comments, which we assume, for the moment, are factual, we will have that information before us, but if we have the Highway officials here, it will be in rebuttal, and we will be back to where we started.

HON. MR. PORTER: There are certain changes made in the Department now which take care of some of the recommendations in this report.

MR. OLIVER: That may all be true, Mr. Attorney-General, but it seems to me we have to get two or three things straight. It appears now there are certain cases before the courts which involve certain contracts and certain people. We are not going to be able to investigate, as far as these contracts and these persons are concerned. Then, too, Mr. Cotnam said this morning that some of his investigation is still incomplete. Therefore, it would be beyond our capacity as a Committee, to go into those questions to which Mr..Cotnam referred as being incomplete.

I think before we settle on our agenda, we should establish, if we can, just what fields are available to the Committee for our examination. In

what fields are we going to be restricted, and what is the territory of those fields?

THE CHAIRMAN: I think, in the first place, when this report from Woods, Gordon and Company, is completed, it will be seen they have covered a very wide field, and have made many recommendations with which we should deal, and regard this report as a very important document, and basis for a great deal of our work.

I would like to make this statement to the members of the Committee, generally. There have been a number of Press reports of late, particularly the statement made by some of our friends in Opposition, that there is evidence available of this, that, and the other thing, and I think the Committee wants presented before it, all relevant evidence along those lines it is permitted to have at this time. If you have any evidence you want to produce, let us know, and we will see the persons are called.

MR.OLIVER: That is precisely the basis I am trying to establish, Mr. Chairman. I think we should have an interpretation from the hon. Attorney-General as to just what area is occupied at the present time , for instance, by Mr. Dubin, in his capacity as Crown Prosecutor.

HON. MR. PORTER: He is the Crown Prosecutor.

MR. OLIVER: Yes, but the charge or charges recited to us this morning were very broad, and there was nothing to indicate a reply to the question we asked, as to what is the field covered by them. Before we can intelligently proceed, we should have definite information, first, by Mr. Dubin, or someone on his behalf, as to what the charges are related and the territory involved, and we should hear Mr. Cotnam in regard to the portion of his investigation which is incomplete, that is, as to the territory it involves. Before we can proceed from there, we should know what territory is remaining into which we can enquire.

HON. MR. PORTER: I understand you and Mr. Wren have certain evidence to bring before the Committee.

MR. OLIVER: That is our intention.

HON. MR. PORTER: Then I think we should know the nature of it, and we should decide whether it will come into our agenda.

MR. WREN: Tell us where we can go.

HON. MR.PORTER: We cannot, until we know the nature of the evidence. How can we possibly tell?

THE CHAIRMAN: Mr. Wren asked about witness

fees. Perhaps Mr. MacTavish can tell us about that.

MR. MacTAVISH, Q.C.: That question is answered by Rule 105 of the Rules of the House, which reads:

"105: The Clerk of the House is authorized to pay out of the contingent fund to witnesses summoned to attend before any Select Committee of the House, except in the case of Private Bills, a reasonable sum per diem, to be determined by the Speaker, and during their attendance, a reasonable allowance for travelling expenses, a upon a certificate or order of the Chairman of the Committee, before which such witnesses have been summoned; but no payment shall be made in any case without the authority of the Speaker, and when any witness shall have been in attendance during three days, if his presence is still further required, recourse shall again be had to the Chairman of the Committee, and so on, every three days."

That is a rule of long standing.

MR. WREN: There is no fixed amount?

MR. MacTAVISH, Q.C.: Apparently not.

HON. MR. PORTER: The travelling expenses are covered, and some allowance for the day's attendance -- every day.

I think if there is some evidence which should be brought before the Committee, the Committee should know the nature of it immediately, and then we might decide what should be done about it.

MR. WREN: Unless all the facts are presented, as far as I am concerned, once I am reliably informed by experts on this Committee as to the questions we can ask in this Committee, and what the proper groundwork is, then I will be prepared to proceed.

HON. MR. PORTER: This Committee has very wide powers, but unless we know the nature of your evidence, how can we decide whether it goes beyond any proper lines, which this Committee thinks is not fair, under the circumstances. I think it is necessary to know the nature of the evidence. You have told the public several times, but you have not told the Committee. You tell the public, but you do not tell the Committee anything.

MR. WREN: I was waiting for the complete report of the Departmental advisors.

HON. MR. PORTER: I think if you have any

evidence which no one else knows about, the Committee is entitled to know the nature of it.

MR. WREN: Mr. Gordon knows some of it, but he was not able to say.

HON. MR. PORTER: We are asking you now. You say you have some very important witnesses?

MR. WREN: I have.

HON. MR. PORTER: You want them immediately brought before this Committee. You have intimated it was a very urgent matter, as I read your statement in the newspapers. I want to know something about that. The Committee may like to know what you have in mind, then it can decide.

MR. OLIVER: May I say this, Mr. Chairman? I think there is a responsibility which rests on this Committee, which the Committee has not as yet discharged.

We were set up to investigate all phases of these Highway matters. We have had a report today from our friend Mr. Gordon, who was authorized and appointed by the administration -- and properly so -- to conduct an investigation. He presented a report addressed to the hon. Minister of Highways (Mr. Doucett). It was not a report which was based on evidence before the Committee, and I would think, Mr. Attorney-General, as a layman, and perhaps a very immature one,

as far as I am concerned in these matters -- I would think the Committee has a very definite responsibility to conduct on its own behalf, an investigation into these matters pertinent to the Highways Department.

HON. MR. PORTER: That is exactly what I am asking you and Mr. Wren to tell us.

MR. OLIVER: It should not rest on Mr. Wren nor I, but rest on the collective membership of the Committee.

So far as my talking is concerned, it is corroborated completely by Mr. Gordon's evidence today, and I have no qualms of conscience in that regard.

I think we have a duty to go into all these things, and report to the Legislature.

THE CHAIRMAN: I do not think we need any lecture on what our duties are. We have started this work very expediously, and if there is something left, about which you want to criticize us, I am prepared to receive it.

We have three full days of work ahead of this Committee. I have not discussed the plans beyond that. As I have said before, and as I repeat again, if any person has any witness he wants summoned before this Committee to give evidence, let us have the name or names, and we will see that he or they is or are

summoned. That will be for determination by the Committee. There are certain senior officials of the Department who are ready and willing to come before us, and present certain facts on behalf of the Department, and, of course, that will be subject to any questions which are properly put to them.

MR. OLIVER: That is a fair interpretation, except this: I was trying to establish -- and perhaps I did not make myself very clear -- just what our field of activities was, which it was possible for us to examine into at this time.

We are prepared to bring witnesses here, whom we think will throw some light on these matters. That is our duty, and the purpose of the Committee, but I do not think any of us want to bring witnesses here, whom, when they come before this Committee, will be immediately told they cannot discuss these things because the matters are before the courts.

HON. MR. PORTER: If you will tell us the nature of the evidence you expect them to give, I presume the Committee can then decide whether it is proper to call them at the moment, or not. But you do not wish to disclose anything, except to the public, in the public press, or a political speech.

You said at one time that one Highway engineer

had a sub-contract --

MR. OLIVER: Did you read that speech carefully?

HON. MR. PORTER: I have it right here. The heading is, "Highways Engineer acted as Contractor, Built Bridge -- Oliver".

MR. OLIVER: I think perhaps the headline was a little out of line.

HON. MR. PORTER: You mean to say the Star made a mistake? This is what the Star said. It shows how you can get into trouble when you make speeches.

This (indicating) is dated May 13th, with big headlines, "Highways Engineer acted as Contractor; Built Bridge - Oliver".

The article goes on to say:

"Farquhar Oliver, Liberal Leader, said today the Frost government has apparently decided that wholesale boosting of quantities on highway construction doesn't warrant criminal charges against the contractors.

It was such boosting that raised some final payments on contracts as much as $500,000 and in one case, to one construction company, $800,000, he declared."

You have not told this to the Committee, but

you have said it someplace else.

It goes on:

"The charges that have been laid against three contracting firms and their top executives are said to concern something other than the boosting, it was learned.

"One of the things that has come to light in investigations by the auditing and engineering firms, whose reports will be made Monday to the Legislative Committee, is that a government engineer was able to sub-contract on a bridge near Fort William".

That is all connected. Did you not say that?

MR. OLIVER: I can say this to the hon. Attorney-General. The first paragraph you read was my statement.

HON. MR. PORTER: Then you deny that the headline is true?

MR. OLIVER: I deny it.

HON. MR. PORTER: You say it is not true? You are quoted as saying that a Highways engineer acted as a contractor and built a bridge. You say you did not say that?

MR. OLIVER: I did not say that.

HON. MR. PORTER: Then the Star has grossly exaggerated or mis-quoted you?

MR. OLIVER: No, I do not know anything about the bridge, or a sub-contract.

HON.MR. PORTER: Cannot we have that straight?

MR. OLIVER: As far as the quantities are concerned, I think you will find they are right.

THE CHAIRMAN: Order, please.

Mr. Elson, have you anything at the moment?

MR. ELSON: No, I have not, Mr. Chairman.

THE CHAIRMAN: This is only my personal view, and the members of the Committee will determine but I feel this Committee should travel up to the Lakehead and visit the various areas up there.

MR. OLIVER: And see this bridge?

HON. MR. PORTER: You admit there is a bridge?

MR. ELSON: I will have the itinerary tomorrow morning.

HON. MR. PORTER: I think we should know from Mr. Wren the nature of the evidence he has disclosed to the public, but will not disclose to us.

MR. GRUMMETT, Q.C.: He has not disclosed anything to the public.

MR. WREN: What did I say that I disclosed to the public?

HON. MR. PORTER: You said you had some witnesses --

MR. WREN: I did, and I have. What I want to know is, what the agenda is going to be, and upon what ground we can travel.

HON. MR. PORTER: If the Committee knew the nature of your evidence, it could decide whether it is in the scope of this enquiry or not.

MR. OLIVER: You think there are no irregularities?

HON. MR. PORTER: I think they have got pretty well to the bottom of the question now.

MR. GRUMMETT, Q.C.: Is it absolutely fair to compel a member of this Committee to divulge everything to the Committee? That is what you are asking him to do.

MR. OLIVER: We will pick our own good time.

HON. MR. PORTER: The Committee has to decide on its agenda, not you, Mr. Wren. A member of this Committee makes statements in public, as to the evidence he has up his sleeve and says it is very urgent that this evidence be brought before the Committee soon, because it is evidence of a very serious nature. I ask him what the nature of that evidence is, so the Committee can decide when we can

hear the evidence to which he refers, but he will not give us the slightest intimation of what the evidence is.

MR. GRUMMETT, Q.C.: You are asking for a preview of the evidence.

MR. WREN: You give us the agenda and encompass what our activities are to be, and I will be glad to tell you what you want to know. There were other things during the Session to which you referred, which you were asked to table, and you did not do it.

HON. MR. PORTER: What were they?

MR. OLIVER: A lot of them.

MR. WREN: You were going to table the reasons why you did not prosecute a certain Crown Attorney, but you did not table it.

MR. GRUMMETT, Q.C.: I think it is wrong, Mr. Chairman, to ask for advance information on everything the member is going to produce. Why not trust the member to bring it in at the proper time?

MR. WREN: When that question was asked of Mr. Cotnam, he very properly said his investigation was not complete.

HON. MR. PORTER: If we knew the nature of the evidence --

MR. OLIVER: You will know in due course,

Mr. Attorney-General.

THE CHAIRMAN: There are a number of individuals and corporations charged with offences under the Criminal Code. I think we have all conceded that evidence which will come out at the trials, relating to these people or these corporations, should not be injected into these proceedings, while these trials are pending.

I will ask Mr. MacTavish to check me closely on this, but I think that any evidence anybody wants to give to this Committee relating to the affairs of this Department under the investigation we are authorized to carry on, relating to any individual who is before the courts, might properly, at the appropriate time, come before this Committee. On that basis, if anyone has a witness he wants to call, the witness should be called while we are sitting, and not talk about it later on. We want to get all the evidence just as quickly as we can.

MR. WREN: When this by-play started, I was asking for information. I have never been on a Committee like this before, and I am asking what the procedure is.

I asked a question, and was told that certain things were brought out under a search warrant,

and, therefore, could not be examined. Those are things I was trying to find out.

HON. MR. PORTER: In the case of your witnesses, they are not under search warrants?

MR. WREN: Some of them are reported to be, by the papers.

HON. MR. PORTER: And you want to bring them here?

MR. WREN: According to the papers, the books of some of them have been seized. I do not know whether they have been or not, personally. When you give us your agenda --

MR. COLLINGS: I take it there are no charges laid?

HON. MR. PORTER: Apparently not. Apparently Mr. Wren has nothing new at all.

THE CHAIRMAN: I invite again the bringing before this Committee of any person whom we think can contribute to the work we have in hand. This is a wide-open invitation to every member of this Committee. I outlined what I understood to be the present differences. Mr. MacTavish, our legal advisor, agrees that is sound. What more, in the way of explanation, do you need at this time? We will be very busy here for the next two or three days --

MR. WREN: I will prepare a list of the names and addresses.

THE CHAIRMAN: Of those whom you want called before this Committee?

MR. WREN: When this report and certain relevant information is available, I will give the list to you, and the Committee can decide where and when they will be called.

MR. JANES: Mr. Chairman, it seems to me in the light of the evidence we have received today, we should have the opportunity of asking the Department of Highways' officials some questions on it.

THE CHAIRMAN: We will do that. Immediately Mr. Gordon finishes, the gentlemen from the Department of Highways will be available. It is my understanding, Mr. Minister, that these gentlemen are not here under subpoena, but have come here voluntarily, and are very anxious to give evidence.

HON. MR. DOUCETT: That is right. Everything we have is yours.

THE CHAIRMAN: I think that is our position at the moment.

MR. WREN: Another thing I would respectfully point out is that two or three of us come from some distance outside, and it is important to know the plans

of the Committee, so we can organize our own time.

HON. MR. PORTER: That is why we want to know who your witnesses are. However, if you are going to make a list of them--

THE CHAIRMAN: I intimated to Mr. Johnson that I think we have at least three days' work ahead of us. I think, in deference to the occupations of the members, the Committee should not sit for more than three days in one week, unless it seems to be essential.

MR. WREN: You intimated we should go to the Lakehead. If so, some of the witnesses might be called there.

HON. MR. PORTER: We will know that when we know who they are, and what sort of evidence they will give. Apparently Mr. Wren knows. He can tell us the nature of the evidence, without going into too many details, and then we can decide whether it is proper evidence or not.

MR. WREN: I will prepare a list for you in writing for tomorrow morning.

THE CHAIRMAN: Then we will adjourn until tomorrow morning, and we will begin with page 41 of Mr. Gordon's report, and continue with it until it is finished, which will probably take up the greater

part of tomorrow.

Then, Mr. Millar, you are ready to go ahead on the details of some points raised this morning, as well as on some other general matters?

MR. MILLAR: Yes.

THE CHAIRMAN: We will now adjourn until 10:30 o'clock tomorrow morning.

---Whereupon the further proceedings of this Committee adjourned until Tuesday, May 18th, 1954, at 10:30 o'clock, a.m.

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